



CITY OF MORGAN HILL
COMMUNITY DEVELOPMENT DEPARTMENT, PLANNING DIVISION

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PLANNING COMMISSION

TUESDAY, MAY 12, 2009

**CITY COUNCIL CHAMBERS
CIVIC CENTER
17555 PEAK AVENUE
MORGAN HILL, CA**

COMMISSIONERS

CHAIR, SUSAN KOEPP-BAKER
VICE-CHAIR, COMMISSIONER WAYNE TANDA
COMMISSIONER H. GENO ACEVEDO
COMMISSIONER ROBERT L. ESCOBAR
COMMISSIONER RALPH LYLE
COMMISSIONER JOHN A. MONIZ
COMMISSIONER JOSEPH H. MUELLER

REGULAR MEETING - 7:00 P.M.

***** A G E N D A *****

NOTICE TO THE PUBLIC

The following policies shall govern the conduct of the Planning Commission meetings:

- *All Planning Commission proceedings are tape-recorded.*
- *Individuals wishing to address the Planning Commission on a particular item should fill out a speaker card and present it to the Secretary. This will assist the Chairperson in hearing your comments at the appropriate time.*
- *When the Chairperson invites you to address the Commission, please state your name and address at the beginning of your remarks.*
- *Speakers will be recognized to offer presentations in the following order:*
 - *Those supporting the application*
 - *Those opposing the application*
 - *Those with general concerns or comments*
 - *Presentations are limited to 5 minutes*

**DECLARATION OF POSTING OF AGENDA IN ACCORDANCE WITH
GOVERNMENT CODE SECTION 54954.2 - SECRETARY REPORT**

OPEN PUBLIC COMMENT PERIOD (5 MINUTES)

Now is the time for presentation from the public on items **NOT** appearing on the agenda that are within the Planning Commission's jurisdiction. Should your comments require Commission action, your request will be placed on the next appropriate agenda. No Commission discussion or action may be taken until your item appears on a future agenda. You may contact the Planning Division for specific time and dates. This procedure is in compliance with the California Public Meeting Law (Brown Act) G.C. 54950.5. Please limit your comments to five (5) minutes.

ORDERS OF THE DAY

MINUTES: April 14, 2009

CONSENT CALENDAR:

- 1) **EXTENSION OF TIME, EOT-09-02: ADAMS-NATT VETERINARY CLINIC:** A request for a 24 month extension of time for a previously approved conditional use permit and extension of time for a veterinary hospital located on the vacant parcel on the northeast corner of Cochrane Rd and Adams Ct (APN 726-34-001).

Recommendation: Adopt Resolution

PUBLIC HEARINGS:

- 2) **DEVELOPMENT AGREEMENT, DA-07-04/DEVELOPMENT SCHEDULE, DS-08-04: GINGER-MURRAY:** A request for approval of a development agreement and development schedule for three units of an overall five-unit, single-family project. The project site is 0.74 acres in size and is located at the northeast corner of Ginger Way and Rose Lane in the R-1(7,000) zoning district. (APN 726-36-071)

Recommendation: Open/Close Public Hearing/Adopt DA Resolution, with recommendation to forward request to City Council for approval/Adopt DS Resolution approving development schedule.

- 3) **EXTENSIONS OF TIME – DEVELOPMENT AGREEMENT AMENDMENT AND DEVELOPMENT SCHEDULE AMENDMENTS:**

- 3a) **DEVELOPMENT AGREEMENT AMENDMENT, DAA-06-06C/DEVELOPMENT SCHEDULE AMENDMENT, DSA-06-01C: MONTEREY-GUNTER:** A request to amend the project development agreement and development schedule for a 15-unit mixed use project on a one acre site located at 17620 Monterey Rd., approximately 100 ft. north of Main Ave. The amendment would extend the commencement of construction dates by 12 months. (APN 726-23-008)

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3b) DEVELOPMENT AGREEMENT AMENDMENT, DAA-05-10D/DEVELOPMENT SCHEDULE AMENDMENT, DSA-07-20C: BARRETT-SYNCON/BOFA:

A request to amend the project development agreement and development schedule for the Lone Oak project located on the northwest corner of the intersection of Barrett Ave. and San Ramon Dr. The amendments would extend all of the commencement of construction dates by 12 months and incorporate 15 building allocations for FY 2010-11. (APN 817-59-060 & 817-57-001)

3c) DEVELOPMENT AGREEMENT AMENDMENT, DAA-07-03/DEVELOPMENT SCHEDULE AMENDMENT, and DSA-07-17: E. CENTRAL-UHC MORGAN HILL:

A request to amend the project development agreement and development schedule for a 49-unit senior housing facility on a 2.6 acre site located on E. Central Ave. west of the railroad tracks, in the Central Commercial Residential zoning district. The amendments would extend all of the commencement of construction dates by 12 months. (APN 726-23-015)

3d) DEVELOPMENT AGREEMENT AMENDMENT, DAA 06-05 C/DEVELOPMENT SCHEDULE AMENDMENT, DSA-06-02: E. MAIN-AHLIN:

A request to amend the project development agreement and development schedule for an approved 134 unit townhouse project on a 6.1-acre site located at the southwest corner of E. Main Ave. and Butterfield Blvd. The amendments would extend the commencement of construction dates by 12 months. (APN 726-15-001 & 726-15-073)

3e) DEVELOPMENT AGREEMENT AMENDMENT, DAA-05-09C/DEVELOPMENT SCHEDULE AMENDMENT, DSA-05-01 : DEL MONTE - GIOVANNI:

A request to amend the development agreement and development schedule for a six-unit, one acre multi-family residential project referred to as Del Monte Corners located on the east side of Del Monte Ave. approx. 80 ft north of Christine Lynn Dr. The amendment would extend the commencement of construction date by 12 months. (APN 764-12-025).

- Recommendation:**
- 1) Open/Conduct Public Hearings on Requests 3a through 3d;
 - 2) Open/Conduct Public Hearing/Table Request 3e;
 - 2) Adopt Resolutions amending the Development Agreement and approving each project's Development Schedule as amended, with recommendation to forward the Development Agreement to the City Council for approval.

OTHER BUSINESS:

- 4) GENERAL PLAN IMPLEMENTATION ANNUAL REPORT:** Review Status of General Plan Implementation.

Recommendation: Report to the City Council that satisfactory progress is being made toward General Plan Implementation.

- 5) PLANNING COMMISSION'S PARTICIPATION IN THE CARBON DIET CLUB:** Presentation Environmental Programs staff on ways to reduce the community's carbon emissions.

TENTATIVE AGENDA FOR THE MAY 26, 2009 MEETING

- Small Lot Single Family Housing Zoning District Workshop
- Downtown Specific Plan Workshop

ANNOUNCEMENTS:

- Workshop Schedule

CITY COUNCIL REPORTS

ADJOURNMENT

SPEAKER CARD

IN ACCORDANCE WITH GOVERNMENT CODE 54953.3, IT IS NOT A REQUIREMENT TO FILL OUT A SPEAKER CARD IN ORDER TO SPEAK TO THE PLANNING COMMISSION. HOWEVER, it is very helpful to the Commission if you would fill out the Speaker Card that is available on the counter in the Council Chambers. Please fill out the card and return it to the Deputy City Clerk. As your name is called by the Chairperson, please walk to the podium and speak directly into the microphone. Clearly state your name and address and proceed to comment upon the agenda item. Please limit your remarks to three (3) minutes.

NOTICE

AMERICANS WITH DISABILITY ACT (ADA)

The City of Morgan Hill complies with the Americans with Disability Act (ADA) and will provide reasonable accommodation to individuals with disabilities to ensure equal access to all facilities, programs and services offered by the City.

If assistance is needed regarding any item appearing on the Planning Commission agenda, please contact the Office of the City Clerk at City Hall, 17555 Peak Avenue or call 779-7259 or Hearing Impaired only - TDD 776-7381 to request accommodation.

NOTICE

NOTICE IS GIVEN pursuant to Government Code Section 65009, that any challenge of any of the above agenda items in court, may be limited to raising only those issues raised by you or on your behalf at the Public Hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to the Public Hearing on these matters.

NOTICE

The time within which judicial review must be sought of the action taken by the Planning Commission which acted upon any matter appearing on this agenda is governed by the provisions of Section 1094.6 of the California Code of Civil Procedure.

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NOTICE

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act that are distributed to a majority of the Planning Commission less than 72 hours prior to an open session, will be made available for public inspection at the Office of the City Clerk at Morgan Hill City Hall located at 17555 Peak Avenue, Morgan Hill, CA, 95037 at the same time that the public records are distributed or made available to the Planning Commission. (Pursuant to Government Code 54957.5)

DRAFT



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

APRIL 14, 2009

PRESENT: Acevedo, Koepp-Baker, Escobar, Lyle, Mueller, Tanda

ABSENT: None

LATE: Moniz, who arrived and was seated on the dais at 7:02 p.m.

STAFF: Community Development Director (CDD) Molloy Previsich, Director of Public Works (DPW) Ashcraft, Planning Manager (PM) Rowe, Deputy Public Works Director (DPWD) Bjarke, Senior Civil Engineer (SCE) Behzad, OES Coordinator (OESC) Ponce, and Minutes Clerk Johnson.

Chair Koepp-Baker called the meeting to order at 7:00 p.m., inviting all present to join as she led the pledge of allegiance to the U.S. flag.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Koepp-Baker opened the floor to public comment for matters not appearing on the agenda.

Noting that none in attendance expressed a wish to address items not appearing on the agenda, the public hearing was closed.

MINUTES:

**MARCH 10,
2009**

**COMMISSIONERS MUELLER/ACEVEDO MOTIONED TO APPROVE
THE MARCH 10, 2009 MINUTES WITH THE FOLLOWING REVISIONS:**

Page 2, last paragraph (disclosure): ... *having been contacted by the School Principal a principle of the management firm, Gloria Pariseau*

Page 2, last line: ... *asking for if*

Page 3, paragraph 6: *Ms. Walton Vasquez*

Page 4, paragraph 2: ...*she live lives a couple...*

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Page 4, paragraph 6: ... school at ~~no~~ queue at dismissal

Page 4, paragraph 9: ... traffic study for

Page 5, paragraph 12: ...regarding the length of time *number of cars*

Page 8, line 5: through the City so all intersections ~~graded~~ *no intersections will be at grade.*

THE MOTION PASSED (6-0-1-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, LYLE, MONIZ, MUELLER, TANDA; NOES: NONE; ABSTAIN: ESCOBAR; ABSENT: NONE.

PUBLIC
HEARINGS:

1) SAN JOSE TO MERCED HIGH-SPEED TRAIN PROJECT Information regarding the proposed project level Environmental Impact Report /Statement for the San Jose to Merced Section of the High-Speed Train System.

PM Rowe reviewed the request from Commissioner Tanda made at the March 10 Planning Commission meeting when the report on the environmental effect prepared for high speed rail sections relating to the City had been discussed. Questions from that prior meeting and those received by staff preceding this meeting had been forwarded to staff of the High Speed Rail Authority for this evening's meeting.

Gary Kennerley, Regional Manager for Merced-San Jose section of the Authority, presented an overview for the Commission, outlining the status and level of the project, including work on the environmental assessment. Mr. Kennerley addressed:

- this is a cost effective way for increasing regional transportation method to a State level
- preferred alternatives for high speed and routes and (at state level) how get high speed from the valley to the coast (via Pacheco Pass from central valley)
- updated business plan completed at end of 2008
- current work on environmental assessment documents (CEQA) , utilizing known the elements of comparable levels of service in use in Europe and Asia {he emphasized there have been no fatalities on those tracks; systems are very safe}
- speeds will be up to 220 mph; further north may have reduced speeds
- the approved Bond measure sets the route as Los Angeles>>Pacheco Pass>>San Francisco as a priority phase
- later routes are joining Sacramento and San Diego to the system
- San Francisco to Los Angeles travel time will be 2 hours and 45 minutes; so must be high speed
- plan is for Morgan Hill: Monterey Highway corridor to San Jose

Mr. Kennerley explained the rationale for the project level environmental assessment, saying, "This program (level EIR/EIS) looks at state issues as a whole, but the project level EIR/EIS looks at local impacts. We will be working with stakeholders, then take the facts to the public for input, and ultimately seek project approval from the State and Federal authorities. In 2009, public scoping will be completed, then the alternatives analysis will go to the public. Following which identified alternatives will be noted, then work completed on the environmental assessment and technical studies with the draft

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environmental assessment ready for presentation in 2011. Actually, the scoping process has just been completed and we now propose getting that to the public. Then the environmental assessment ideas and key concerns plus any alternatives can be developed. Comments are still coming in and responses will be completed within the next month or so. Then we will be identifying viable alternatives followed by the draft alternative analysis for presentation to the public. Gathering responses to those presentation, the analysis and assessments will be refined and an alternative scoping report prepared.”

Mr. Kennerley went on to discuss:

- basic alternatives>>preferred alternatives, including least damaging environmental assessment alternative
- looking at all alternatives through Morgan Hill for least environmental assessment damaging impacts
- need to look at station locations (there will be no station in Los Banos)
- consideration of maintenance, facilities locations
 - o depth and scope of environmental assessment analysis
 - o quiet areas versus full range
 - o pre-scoping areas
 - o urban noise
 - o cohesion of neighbors what will happen to property

Mr. Kennerley remarked that the decision makers and all workers were aware of the environmental sensitivity of Coyote Valley. “The decision makers of the authority and staff have received many hundred of comments for suggestions of alignment of the system,” he said. Mr. Kennerley then continued by speaking to the issues of right of way requirements and land use.

Turning to questions forwarded from Morgan Hill staff and the Planning Commissioners, Mr. Kennerley spoke to:

- the final design-maker (decision-maker for the route) will be the High Speed Authority in conjunction with the Federal Railroad Administration, following considerable public outreach process
- criteria for location and design decision where tracks need to go; high speed turns require a five-mile radius (European and Asian models are used for guidance)
- cities will get ‘best fit’
- planned route for Morgan Hill - alternative to downtown; City has requested looking at other considerations[that will occur in the initial screening]

Commissioners asked questions and discussed with Mr. Kennerley:

- ◇ potential for tunneling through Morgan Hill for a route; Mr. Kennerley advised that a ‘true tunnel’ might not be option, but a covered trench may be considered and will be studied
- ◇ why the Authority’s staff had selected the preferred corridor rather than going alongside Highway 101? [The chosen route meets the criteria; 101 is curvy and trains would have to move side to side]
- ◇ Authority staff looked at the whole corridor rather than individual cities and locations;

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- ◇ looking at alternatives continues
- ◇ hope for a shared route with CalTrain
- ◇ Authority staff is right now designing the system to 'full speed' (220 mph)
- ◇ reason for amount of space needed for turns

Commissioner Mueller asked for clarification regarding the environmental assessment, e.g., once the reviews are completed, there will be a shared decision making with Federal Railroad Administration? Mr. Kennerley responded, "That is true for the final decision." He went on to remind that the High Speed Rail Authority is the chief decision maker for the State, but with the bottom line for funding, the Federal Railroad Administration is the final decision maker. Commissioner Mueller then asked about eminent domain. Mr. Kennerley explained that both the Federal and State government have the authority to use that process.

Commissioner Moniz asked about aerial structures through urban areas, including Morgan Hill. Mr. Kennerley said, "We will try to respect local criteria, which we basically assume to be 17 - 18 feet." Commissioner Moniz asked about placement of columns for the elevated structure, with that figuring into the total space for the corridor, which was determined to be 'roughly 40-ft wide'. Commissioner Moniz continued, asking about noise and vibration levels. When answering, Mr. Kennerley spoke to the difference in elevation(s) and at grade as he explained:

- international standards are set at 90 decibels >> Authority staff is basing studies on 50 decibels for the train now
- trains will be generating noise levels of 80-85 decibels at full speed
- Federal Railroad Administration guidelines will be followed

Mr. Kennerley reminded that the methodology used was available on the High Speed Authority web site.

Commissioner Acevedo highlighted the need for further discussion of the higher decibels, asking, "How long can the train be heard at peak time runs?" Mr. Kennerley responded, "A few seconds. Our analysis takes equalized level perception rather than true measurements." Commissioner Acevedo then asked about the schedule of runs? Mr. Kennerley explained, "The peak times of 6 - 9 am and 6 - 9 pm will see 9 - 10 trains from each direction. Right now we are going through updated rider ship projections, so eventually that number could be increased, so perhaps there would be a total of 24 trains per day." Further responding to questions from Commissioner Acevedo, he said the trains could be anticipated to be 1,030 feet long during high peak times and during off peak, slightly under 700 feet.

Mr. Kennerley also noted that at high speed the train would sound like "whoosh" with an aerodynamic speed much as there would not be contact of impact with steel on steel. The effect will result in smoother wheels and those wheels will be checked weekly. He compared the planned system with that of the Spanish HGV at 117 mph. Commissioner Mueller suggested use of the Authority's web site for train sounds as well as the criteria for initial screening.

Commissioners asked questions regarding:

- track size and placement of the corridor
- hours of service [mostly early {will start from Los Angeles at 5 AM;

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- arrive in San Francisco 2 hours and 45 minutes later) and late PM]
- potential for freight [to be studied in the future]
- ground level; might see 60 feet minimum for double tracks plus space for maintenance, drainage
- space (distance) along right of way not determined yet

Commissioner Mueller spoke to the need to plan for dealing with emergencies between stations. Mr. Kennerley said, "Staff has not determined spacing yet."

Commissioner Lyle asked about the 'trench option': how the evaluation will be done, what is the possibility of such placement? Mr. Kennerley said, "Trenching requires a wider footprint which results in being much more disruptive for construction. In Morgan Hill, we looked at an elevated structure, and concentrated work on other issues."

Commissioner Lyle continued by asking how Authority staff evaluates esthetics: visual as well as noise. Mr. Kennerley said, "We are considering that in the environmental assessment where we address and explain the visual and noise criteria."

Commissioner Tanda asked for further explanation of the technology the wheel/rail contact is based on. Following the clarification by Mr. Kennerley, Commissioner Tanda expressed support for that technology, acknowledging, "That is proven technology and the way to go. It also reduces risk of tax payers' dollars." Mr. Kennerley said the Authority staff had concentrated on technology use for that very reason. Commissioner Tanda asked other questions regarding

- ♦ right of way needed; additional space needed
- ♦ tracks only in 'each direction' [there will be four tracks only at station locations]

Commissioner Tanda observed that he had been reading that some Cities on the Peninsula, e.g., Palo Alto, were insisting on having Authority staff study the potential for tunneling. Mr. Kennerley said Morgan Hill City officials have asked to have the same study done here. "Within reason," he said, "adjacent sections can be studied for vertical options and we are also open to looking at the Highway 101 corridor again."

Commissioner Acevedo inquired, "With 101 being curvy, what about the elevations that are being studied?" Mr. Kennerley responded, "We see a maximum of 2 ½ % elevation with the intersections posing constraint connections, and the need for some leveling with cut and fill."

Commissioners discussed with Mr. Kennerley:

- if there could be a suggestion of deviating to 101 which could bypass Morgan Hill?
- if there was really need for a five mile radius for turning turn

Mr. Kennerley explained that the current design criteria for 250 mph is set and suggested variants would depend on constraints and impacts, but promised, "We will look at your requests."

Chair Koepp-Baker spoke to the issue of travel time, then asked, "If you go to different alternatives rather than now, how would those changes affect the requirement travel from San Francisco to Los Angeles in 2 hours 40 minutes?" Mr. Kennerley divulged that

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Authority staff must look at that when considering all modifications. "We actually are encouraging decreasing that time by studying if the Pacheco Pass may see a shortened route, distance-wise somewhat. Recall that only one part of the design criterion is the San Francisco - Los Angeles route."

Commissioner Lyle brought up the issue of a 'major impact on business and homes' along the route, and asked, "What is Authority staff looking at for as mitigation? Here in Morgan Hill it appears there are many disadvantages with few advantages. What is the impact to homeowners and businesses?" Mr. Kennerley provided an overview of the Community Impact Study Assessment, saying the issues raised will be addressed together with impacts of the land use study. "We are looking at 6 months for the study completion. Our time line includes: 2011 - environmental assessment circulation and the completion of the mitigation monitoring plan at the end of 2011, and early project approval in 2012."

Commissioner Mueller referenced the experience with the Coyote Valley Environmental Assessment. "This is at least as complex as that environmental assessment with many comment received. The result was lengthy. You seem to want to go from draft to final in a year. Is that possible?" Mr. Kennerley responded, "Yes, as long as we do good job of studying the alternatives."

Having concluded explanation and discussion of this matter for the present time, the Commissioners graciously thanked Mr. Kennerley for attending the meeting.

2) EMERGENCY OPERATIONS PLANNING FOR ANDERSON DAM

Information item on the City's Office of Emergency Services and the Santa Clara Valley Water District's emergency planning relating to Anderson Dam.

PM Rowe presented a brief staff report, noting this item had been requested by Commissioner Acevedo to be placed on the agenda as he had referenced a January media account of 'what might happen in a worse case scenario should the Anderson Dam experience destruction from an earthquake.

Emergency Services Coordinator Jennifer Ponce was present to address the Commissioners and provided an overview with salient points provided:

- in the unlikely event Anderson dam would fail, first responding agencies would notify the public through loudspeaker systems and by going door to door
- explanation of the current emergency notification system, including information on
- emergency routes
- background of the overall Emergency Services Plan, the draft of which is now being reviewed (direction having been provided by City Council action in 2006)
- Emergency Services Plan consists of a set of emergency instructions specific to identified potential emergencies

OESC Ponce advised that there are few experts for mass evacuations in the State, so the CA Office of Emergency Services will review and critique the Plan on finalization.

OESC Ponce noticed work being completed in correlation with the Santa Clara County

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Water District, making the City's Plan specific in the event of failure of the Anderson Dam. Precise items in the Plan include:

- ☪ emergency operations center in the Police Department, with several agencies coordinating management of the event (the system was activated with the recent event when communication lines were down as well as in January 2008 when the downtown had flooded)
- ☪ continuous updating of the Plan
- ☪ interaction with County, Region, State, and ultimately Federal EMS programs
- ☪ system for early notification for Anderson Dam failure [similar to reverse 911 (San Diego County)]
- ☪ Citizen notification by cell phone, e-mail, and land lines (registration available on City web site)
- ☪ Anderson Dam safety status summary provided
- ☪ Santa Clara Water District comprehensive study of dam underway (could take up to a year for completion)
- ☪ City and County have reasonable plans for notification in event of failure of the Anderson Dam

Commissioner Mueller asked, "How long would it take to have the water reach the City following a breach of the Dam, and how deep would the water be at the police station?" DPW Ashcraft was asked to address the question. "The depth of the water at the Police Station would be over 20-feet in the event of a total dam failure, and with the dam being full." To which Commissioner Mueller commented, "If there was that type of emergency the loud speaker would inoperable and the EMS would also be gone. Where would help be available?"

PM Rowe advised of experiences with a toxic spill along the railroad, when the County EMS was temporary obtainable. "There are also other items available immediately," he said, "such as the Cisco Systems mobile communications coordination which they brought in during the recent communication outage emergency."

Responding to a question from Commissioner Mueller, OESC Ponce told of the study for potential emergencies, and how the Plan was being built from those identifying factors.

Commissioner Escobar told of having just completed a coordinated training session whereby many of the factors being addressed in this meeting were being synchronized through Federal and State agencies. "They are identifying alternate planning for locations," Commissioner Escobar said. "When we have inundation maps, there may be need to have multiple scenarios addressed. It appears that one essential to success will be to have coordinated effort before hand. There are other catastrophic events to be planned for, such as an earthquake. I find that we have a lot of Cities, the County, and such agencies as VTA have many resources which they are willing to share for potential impact Remember, an aftermath must be considered as well."

OESC Ponce stressed the importance of having so many collaborative efforts now working together. "They are working well together, with many mutual aid agreements in place," she said.

Commissioner Mueller remarked, "We ought to have information posted on the City web

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site – it would be a good education tool.”

Chair Koepp-Baker commented, “This emphasizes the importance of information sharing.”

Commissioner Escobar advised, “When we are looking at the Office of Emergency Services, we must recognize that while there are limited resources, there is a lot of information available. It is important to identify and coordinate that information.”

Commissioner Tanda asked if there were a warning siren which could be heard throughout the City? [Previously there had been, but it is not viable.] Discussion ensued regarding the renewed focus on promoting El Toro as a high point location for safety.

Commissioner Lyle led discussion regarding the Santa Clara Water District web site where inundation map can be viewed.

Commissioner Mueller suggested an ‘emergency section’ on the on front page of the City’s web site with links to emergency service and information.

OESC Ponce advised that the Morgan Hill Unified School District is required to have an emergency plan, including evacuation routes, in place.

Other concerns/issues brought forth by the Commissioners included:

- ♦ indoors alert, e.g., testing of horn
- ♦ tsunami warnings systems (OESC Ponce to check on)
- ♦ need for family reunification plans

OESC Ponce was soundly thanked for the presentation by the Commissioners.

3) UP-09-02:
SAN PEDRO-
T-MOBILE

A request for approval of a Conditional Use Permit to legalize an existing wireless service provider. As part of the approval the applicant is requesting to replace 3 panel antennas and install additional equipment to the existing site. The site is located at 235 San Pedro Ave and is in a Light Industrial zoning district.

PM Rowe presented the staff report, noting the equipment had been on the site since 1995. “However,” he said, “this request is to replace the existing equipment with new panels so findings are required.” PM Rowe then gave an overview of the findings, and identified the ways to meet each.

Disclosure: Chair Koepp-Baker had visited the site and reported she found ‘nothing offensive’.

Chair Koepp-Baker also called attention to Exhibit A, Condition #10: shared space with City emergency services.

Chair Koepp-Baker opened the public hearing.

Leah Hernikl, 410 Clubhouse Drive, Aptos, was present representing the applicant, T-Mobile, and offered to answer questions.

Having noted no others present to speak to the matter, the public was closed.

COMMISSIONER MUELLER OFFERED A RESOLUTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS THEREIN, APPROVING A CONDITIONAL USE PERMIT TO ALLOW FOR THE USE OF TELECOMMUNICATIONS ANTENNAS AND ASSOCIATED EQUIPMENT CABINETS FOR WIRELESS COMMUNICATION SERVICES AT 2353 SAN PEDRO AVE. COMMISSIONER ESCOBAR PROVIDED THE SECOND TO THE MOTION WHICH PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, ESCOBAR, KOEPP-BAKER, LYLE, MONIZ, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

**4) ZA-09-03:
AMENDMENTS
TO DESIGN
REVIEW
ZONING
CHAPTER 18.74
AND TO
CHAPTER 2.56
AND OTHER
SECTIONS OF
THE CITY OF
MORGAN HILL
MUNICIPAL
CODE IN ORDER
TO CEASE THE
ARCHITECT-
URAL REVIEW
BOARD**

Repeal of Chapter 2.56 and Amendment to Chapter 18.74 to remove Architectural Review Board (ARB) and to shift design permit (architectural and site review) authority to staff; and amendments to modify and clarify requirements and procedures related to review and action on design permits, including extensions and modifications of permits. Amendments to other sections of the Municipal Code to substitute "Community Development Director" in place of "Architectural Review Board".

CDD Molloy Previsich presented the staff report, noting this item had resulted from the City Council directive as part of budget reduction effort. By eliminating the Architectural Review Board, it would also reduce monies required and streamline future items for the public.

CDD Molloy Previsich then reviewed the items connected with this item:

- repeal Chapter 2.56, with changes (amendments) to Chapter 18.74.
- design review process will be through a permit process (for minor design changes); and through Community Development Department staff
- change in fee structure with a review of the fee process
- major modifications will be reviewed by staff and heard by the Planning Commission, which will require noticing for public hearings with a 10 day advance notice and postings; no specific/set times for hearings but as staff prepares completed permit applications (as needed basis)

CDD Molloy Previsich emphasized that extensions can be acted on Administratively even those previously approved by the City Council and/or Planning Commission for one year at a time. Following discussion, **IT WAS AGREED BY CONSENSUS OF THE COMMISSIONERS PRESENT – AND NONE WERE ABSENT – TO RECOMMEND THAT THE END DATE FOR SUCH BMR REDUCTION EXTENSION WOULD BE SEPTEMBER 30, 2010** (which is concurrent with the extension date previously declared).

CDD Molloy Previsich continued by addressing the fact that can be approved by CDD staff or if staff determines a public hearing is warranted, that matter will be sent to the Planning Commission and/or City Council in a public meeting. Further, she said, other changes were noted, including fencing heights, etc., which would automatically be sent for Planning Commission hearing.

Commissioner Lyle called attention to Chapter 18.74.030, where language change is proposed, and asked if a project goes through RDCS, how would those cases be handled?

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CDD Molloy Previsich responded, "Usually those projects have a development agreement which would trigger certain actions and timeframes," she said. CDD Molloy Previsich also reminded of the language 'the Community Development Director could decide to refer items to the Planning Commission and/or the City Council.

Other items/issues discussed included:

- pruning of trees; new language does not really indicate how process accessed
- minor exceptions approved by Community Development Director
- Code to 'fall back on' if lack of ability to proactively enforce new items
- function of planned development in achieving goals
- impact on Planning Commission agendas {minimal as few appeals now from ARB actions}
- appeals go to Planning Commission exclusively

Commissioner Mueller questioned the removal of archeological reference, asking, "Why?" CDD Molloy Previsich responded, "This new ordinance refers to Historical Resources, and with the deletion of the previous, there is no longer archeological significance, just a Code reference."

Commissioner Mueller said, "It would make sense on an annual basis at a Planning Commission meeting to study design review issues or concerns by the public which is driving the architecture in our community. We most likely have need for formalizing such a review annually." CDD Molloy Previsich said the City would most likely not codify such a review but it would be helpful to schedule those reviews periodically. CDD Molloy Previsich advised that will be included in the CDD work plan relating to Planning Commission updates and reviews.

Commissioner Acevedo advised he had completed a cursory review of the General Plan, and believed that the Committee for the General Plan had specially wanted the ARB. He asked CDD Molloy Previsich to check with Planning staff regarding the matter.

Commissioner Moniz asked what the average attendance was at ARB meetings? {few attendees}. Discussion ensued which disclosed that any meetings for staff and appellants would be 'pretty low key' as attendance could be anticipated to be light. CDD staff will most likely take minutes for those meetings, which will be permanent records.

Commissioner Moniz asked about the notification radius: owners within 300 feet
[New recommended language is required by Government Code; staff is recommending local permits not state law / effects of state law, but local permitting.]

Chair Koepp-Baker opened, and then closed, the public hearing as there were none in attendance to speak to the matter.

CDD Molloy Previsich advised that the CDD staff recommendation (not a Resolution as such is not required) to City Council to approve and adopt amendments to Design Review Zoning Chapter 18.74 and to Chapter 2.56 and other Sections of the City of Morgan Hill Municipal Code in order to cease the Architectural Review Board.

COMMISSIONERS MUELLER/ ESCOBAR MOTIONED TO FORWARD THE

CHANGES AS REPRESENTED (AMENDMENTS TO DESIGN REVIEW ZONING CHAPTER 18.74 AND TO CHAPTER 2.56 AND OTHER SECTIONS OF THE CITY OF MORGAN HILL MUNICIPAL CODE IN ORDER TO CEASE THE ARCHITECTURAL REVIEW BOARD) WITH AN AMENDMENT TO THE PRESENTED REPORT: EXTENSIONS FOR CURRENT ARB APPROVALS TO SEPTEMBER 30, 2010, TOGETHER WITH MINOR LANGUAGE CHANGES AS NOTED DURING DISCUSSION OF THE AMENDED CHAPTERS, WHICH HAD BEEN DISTRIBUTED DURING THE PLANNING COMMISSION MEETING. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.

**5) FINDING OF
GENERAL PLAN
CONSISTENCY
FOR DRAFT
FY2009/10 –
2013/14 CIP**

The Planning Commission is requested to review the draft Five-Year Capital Improvements Program (CIP) for consistency with the Adopted 2001 General Plan.

DPWD Bjarke, SCE Behzad, and Julie Spears (who works with City Parkland issues) were present to provide information of the } DPWD) Bjarke, Senior Civil Engineer (SCE) Behzad {draft} CIP in the categories of:

- ♦ Parks
- ♦ Public facilities
- ♦ Sanitary sewer
- ♦ Storm drainage
- ♦ Streets
- ♦ Water

Each of the categories was discussed in detail, with questions being addressed by the City staff indicated.

Commissioners discussed with staff:

- spending plan approved by the City Council
- City assets become maintenance responsibilities
- identification of new projects from last year
- concerns of park land purchase and enhancement of parks
- targeting of service provision at neighborhood parks <Commissioner Mueller> “In past, 5 acres geared toward passive parks; appears to be concentration on larger parks.”
- Southeast quadrant referenced to Park Master Plan in 2001
- School decision-making re: property for parks adjacent to school
- <Ms. Spears> 25 acres doable for this CIP
- appears City now has prime opportunity to purchase parkland at cost can afford; investigation and purchase efforts will continue
- considerable discussion of PL 566 (City will partner with Santa Clara County Water District to move design forward on PL 566; design will be by Corps)

When DPWD Bjarke discussed the plan for removing turf and putting in low landscaping at the Community Center, dissention arose. DPWD Bjarke explained that the intent was to reduce watering costs. It was pointed out by the Commissioners that the grass area provided a communal meeting place. Several items relating to the matter were discussed, including: synthetic grass and reclaimed water possible for irrigation.

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The potential for obtaining Federal stimulus money for various projects, including street arterials rehabilitation was discussed.

Efforts to have more parking downtown, and including a safe, lighted path for pedestrians at all times was agreed.

The potential for Santa Teresa having two, rather than four, lanes was indicated.

Also discussed were the following issues:

- SB 375 (Greenhouse gas reduction requirements) ~ in relation to City circulation elements, and how to accommodate pedestrians.
- types of funding, e.g., ADA, and when it generally becomes available
- RDCS requirements, i.e., safe walking route to school (currently map drafts being done and will be completed with impact fee monies)
[Commissioners said this should be high priority – SCE Creer will be at the next meeting to address those commitments]

It was noted that more City wells are needed.

Chair Koepp-Baker opened, and then closed, the public hearing as there were no persons present to address the matter.

Commissioners addressed the following concerns:

Acevedo whether Open Space included in Park Lands (10% is included)

Mueller *third fire station* missing from current CIP; had been included for years
As in the past, this issue generated considerable discussion.

DPWD Bjarke said: City is looking at options for fire service provision and detailed what City Council might be considering, including monies for staffing. "There are means to build the station but not provide staffing," he said.

Chair Koepp-Baker spoke to having 'capital costs in hand'. "However," she said, "to me it seems remiss to citizens that the City is not providing adequate protection. We are able to cover the City as one company covers for another. But the concern remains: what happens if coverage is not available. For four years the CIP has said we need to have another fire station. IN this process, the City is looking at being able to provide protection for citizens."

Commissioner Mueller spoke to the Fire Master Plan (part of the General Plan), which he reminded calls for a third fire station. "Now it appears the City is planning to build many buildings in downtown without addressing that need," he said. "If it is not part of the CIP, how to aid citizens is not addressed."

Chair Koepp-Baker said, "It has been in the CIP previously, but now is not, and that is the concern."

Commissioner Tanda reminded that the CIP is a five year plan, and the General Plan runs for 10-15 years.

Commissioner Lyle said, "The current General Plan is in the tenth year, but we have not

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done another fire station. The problem is that the City Council is doing due diligence, and hopefully achieving some savings, but not solving the problem. We still need the third station geographically.”

Commissioner Mueller provided examples of concerns relating to recent issues with fire safety. “I am uncomfortable with not including the third station in this plan,” he said. “My concern is that this CIP goes out another five years without including a third fire station.”

Commissioner Tanda signaled intention to introduce a motion for approving the CIP as presented, with a notation: inclusion of a third fire station, including capital and operating expenses.

Discussion continued with Commissioners noting the following needs for the CIP:

- add fire station to CIP; focus on need for Downtown
- address neighborhood parks (not sufficient as presented; CIP really ‘works’ for one year only
- major circulation study underway; should be including in CIP
- potential for future review of upcoming CIPs with the fire station included

Commissioner Escobar asked, “How valid is the goal if we want to build a fire station with no plan for staffing? Unless there is money to operate, what will happen? I am not opposed to retuning fire station to the CIP, but at best it seems only symbolic. It doesn’t make sense - even if the demand is great – to build something the City can’t operate. We need to be saying to the City Council: look at our resources and also look at how we can staff the facility.”

Commissioner Lyle spoke to the need for consistency with the General Plan.

Commissioner Mueller urged keeping the third fire station in the CIP. “I think we are putting the City at risk with leaving it out, and that is a problem.”

COMMISSIONERS TANDA/ACEVEDO MOTIONED TO RECOMMEND THE PRESENTED CIP FOR FY 2010-2014, WITH THE FINDING THAT THE CIP PROVIDES CONSISTENCY WITH THE GENERAL PLAN, TOGETHER WITH THE INCLUSION OF THE FOLLOWING:

- a third fire station for the City, including capital expenditure and staffing
- park purchase emphasizing neighborhood parks; not relying on active recreational parks

THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, LYLE, MONIZ, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

Commissioner Escobar advised, “It would be nice to have a list of projects drooped from the CIP, and why that occurred.”

**6) RDCS
QUARTERLY
REPORT**

Quarterly review of the progress of residential projects that have been awarded building allocations under the City’s Residential Development Control System.

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PM Rowe gave the staff report. "Since the last quarterly, there have been no permits issued for new construction starts," PM Rowe said. Then referencing the report, he said, "Many of the projects are behind. Some are being considered for extensions following the May 19 special election. Population estimates will be updated and adjustments made."

Commissioner Mueller advised he has more recent charts from the real estate community indicating trends (City specific), which he will forward to PM Rowe.

Chair Koepp-Baker opened, and then closed the public hearing was there were none present to address the matter.

Commissioner Mueller asked, "Before this is sent to the City Council, will staff update the population numbers? [Yes] Commissioner Mueller also asked that the affordability levels for 2008 be made current; PM Rowe will re-check and correct as warranted.

COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO APPROVE THE RDCS QUARTERLY REPORT AS PRESENTED, WITH CORRECTIONS BY STAFF AS WARRANTED AND FORWARD SAID REPORT TO THE CITY COUNCIL. THE MOTION PASSED (7-0) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, ESCOBAR, LYLE, MONIZ, MUELLER, TANDA; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.

7) MULTI-FAMILY VACANCY RATE REPORT

Biannual review of apartment vacancy rate as required in accordance to the Morgan Hill Municipal Code, Chapter 17.36.

PM Rowe presented the staff report, announcing the vacancy rate was 2.5%.

Commissioner Lyle questioned why the low end of rents for 1 to 3 bedroom units had increased by approximately 50%? PM Rowe was directed to re-check the numbers for accuracy.

Having agreed on the matter of revising Terracina numbers, **COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO ACCEPT THE MULTI-FAMILY VACANCY RATE REPORT AND HAVE IT FORWARDED TO THE CITY COUNCIL. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

8) PLANNING COMMISSION'S PARTICIPATION IN THE CARBON DIET CLUB

Presentation and discussion on forming a Carbon Diet Club and potential meeting dates.

PM Rowe gave the staff report, and advising this item was agendaized at the request of Commissioner Tanda following communication from Mayor Tate. PM Rowe gave an overview of how the program would work. He also advised that if the Carbon Reduction Club was to be a program for the Planning Commission, the Brown Act would need to be followed; therefore, staff suggested having meetings in conjunction with regular Commission meetings.

The Commissioners discussed time frames, goal, seating of new Commissioners, upcoming issues, and best time to begin the Club.

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Commissioner Mueller said it might be worthwhile to work with Environmental Programs and devote discussion to help families to reduce carbon emissions. "If we discuss it once every six months, using that opportunity as an educational forum to push carbon reduction for public and move the goals of the carbon diet along, it would be a good way to give the public some education," Commissioner Mueller said. He went on to point out the value to students who attend the meetings, and said it would be a worthwhile use of time during the meetings.

Commissioner Tanda commented, "Three meetings in a row would be good to promote the Mayor's Carbon Diet Club, and that would be a most efficient way of using 20-30 minutes for education."

CDD Molloy Previsich volunteered to talk to Environmental Programs personnel to help set goals for accomplishing the objective.

ALL COMMISSIONERS PRESENT EXPRESSED SUPPORT FOR THE MEMBERSHIP IN THE CARBON REDUCTION CLUB, WHICH WILL HAVE THE FIRST MEETING SCHEDULED FOR MAY, 2009.

**ANNOUNCEMENTS/
COMMISSIONER
IDENTIFIED ISSUES**

CDD staff has set scheduling for Planning Commission work on the Downtown Specific Plan beginning at the May 26 meeting. Additionally, there will be a Community Workshop on the Downtown Plan implementation activities; that workshop is set for April 30 at the Community Center. The Transportation Study Environmental Assessment will be presented in June, with significant policy decision discussion for the Planning Commission.

Commissioner Tanda asked if the City plans efforts to educate the public regarding the May 19 election. CDD Molloy Previsich said such outreach would be included in the April 30 meeting.

**CITY COUNCIL
REPORTS**

None

ADJOURNMENT

With no further business to be completed, Chair Koepp-Baker adjourned the meeting at 10:48 p.m.

MINUTES RECORDED AND PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk



MEMORANDUM

To: PLANNING COMMISSION
From: COMMUNITY DEVELOPMENT DEPARTMENT
Subject: EOT-09-02: ADAMS-NATT VETERINARY HOSPITAL

Date: MAY 12, 2009

REQUEST

The applicant is requesting a 24 month extension of time for a previously approved conditional use permit and extension of time for a veterinary hospital located on the vacant parcel on the northeast corner of Cochrane Rd and Adams Ct (APN 726-34-001).

RECOMMENDATION

Environmental Assessment: A Mitigated Negative Declaration has been previously adopted for this project

Application, EOT-09-02: Adopt a Resolution approving the extension of time

Processing Deadline: October 13, 2009

BACKGROUND

On March 14, 2006 the Planning Commission approved a conditional use permit for the use of a veterinary hospital located on a vacant parcel on the northeast corner of Cochrane Rd and Adams Ct (Resolution No. 06-25). The conditional use permit was in effect for eighteen months and was to expire on September 14, 2007. On September 11, 2007 the Planning Commission approved an extension of time to commence the use by March 14, 2009 (Resolution No. 07-66). A site review plan has subsequently been approved by the Architectural Review Board for the development of the site. The applicant is requesting additional time to commence the use (additional 24 months).

PROJECT DESCRIPTION

The site is zoned Light Industrial with a General Plan designation of Industrial.

The previously submitted statement of proposed operations states that this facility would be used to provide veterinary services to small animals. The proposed hours of operation are Monday through Friday, 8:00AM to 6:00PM; and Saturday from 9:00AM to 1:00PM. The number of proposed employees is 4, to include 2 technicians, 1 receptionist, and 1 veterinary doctor. The current proposed facility incorporates a 4,285 square foot building to include a reception area, exam rooms, treatment rooms, a surgery room, and boarding areas.

CASE ANALYSIS

The applicant is requesting a twenty four month extension of time to an approved conditional use permit (CUP). On September 11, 2007 the Planning Commission approved an extension of time for the CUP to commence the use by March 14, 2009 because the applicant had changed architects and was considering new building/site designs. A new site plan and building elevation plans were approved by the Architectural Review Board, however, according to the applicant, there have been unforeseen delays with the civil engineer working on the project relating to the off-site improvements.

There is no new information regarding this site or surrounding properties that would change or impact this project. Based on the request, there are no additional conditions recommended.

RECOMMENDATION

Staff recommends approval of an extension of time application EOT 09-02: Adams – Natt Veterinary Hospital, subject to the conditions contained in the attached Resolution.

ATTACHMENTS:

1. Resolution approving Extension of Time
2. Letter of Justification
3. Vicinity Map

RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING AN EXTENSION OF TIME TO THE CONDITIONAL USE PERMIT FOR A VETERINARY HOSPITAL IN THE NORTHEAST CORNER OF COCHRANE ROAD AND ADAMS COURT IN THE ML-LIGHT INDUSTRIAL ZONING DISTRICT. (APN 726-34-001)

WHEREAS, such request was considered by the Planning Commission at their regular meeting of May 12, 2009, at which time the Planning Commission approved application EOT-09-02: Adams-Natt Veterinary Hospital; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. The approved use is consistent with the Zoning Ordinance and the General Plan.

SECTION 2. A Mitigated Negative Declaration has been previously adopted for this project.

SECTION 3. The approved extension of time for a conditional use permit has been found consistent with the criteria contained in Section 18.54.070 of the Zoning Code.

SECTION 4. The approved project shall be subject to the following conditions:

- A. Signed Resolutions. Within 30 days of the extension of time approval, the applicant shall submit two (2) sign copies of Resolution No. _____ to the Planning Division.
- B. Time Limits. The Extension of Time approval granted under this Resolution shall remain in effect for twenty four (24) months of the previous extension of time approval (Resolution No. 07-66) to March 14, 2011. Failure to commence the use within this term shall result in termination of approval unless an extension of time is granted with a showing of just cause prior to the expiration date.(MHMC 18.54.070)
- C. All conditions for the conditional use permit (UP-05-06) approved under Resolution No. 06-25 shall remain in effect.
- D. Defense and Indemnity. Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason

of its approval of this use permit. In addition, applicant shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, applicant shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted. The undersigned hereby represents that they are fully empowered by the applicant as their agent to agree to provide the indemnification, defense and hold harmless obligations, and the signature below represents the unconditional agreement by applicant to be bound by such conditions.

PASSED AND ADOPTED THIS 12th DAY OF MAY, 2009, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

ELAINE BUCK, Deputy City Clerk

SUSAN KOEPP-BAKER, Chair

A F F I D A V I T

I, Dr. Manprit Natt, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

Dr. Manprit Natt, Applicant

Date: _____

DEVELOPMENT
SERVICES

MAR 18 2009

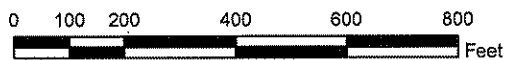
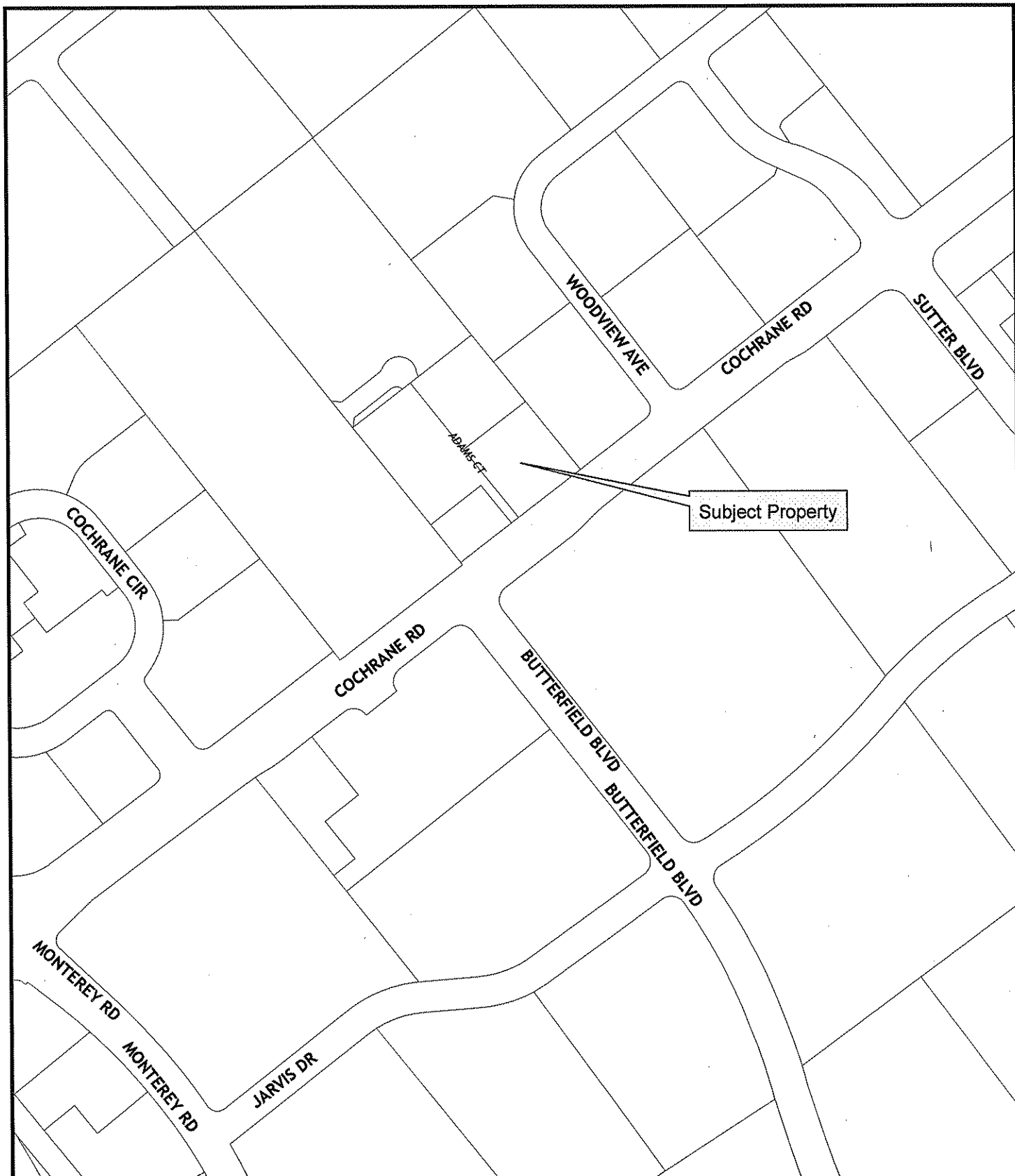
CITY OF MORGAN HILL

To,

THE CITY OF MORGAN HILL.

I am requesting 2 year
extension of time for ~~the~~ my
Site Review and Conditional
permit application.

There were unforeseen delays
because of re-submission requests
which unfortunately were not-
handled in a timely manner
by the Civil Engineer working on
this project as well as the
Public Works Department mainly
because they were moving offices
in the middle of all this. Manspil-Matt



EOT-09-02: Adams-Natt

Vicinity Map





MEMORANDUM

To: PLANNING COMMISSION

Date: May 12, 2009

From: COMMUNITY DEVELOPMENT DEPARTMENT

**Subject: DEVELOPMENT AGREEMENT DA-07-04, AND DEVELOPMENT
SCHEDULE DS-08-04: GINGER - MURRAY**

REQUEST

The request is to approve a development agreement and development schedule for three units of a five-unit, single-family project proposed on a 0.74-acre site located on the south side of Peebles Avenue bounded by Rose Lane and Ginger Way.

RECOMMENDATION

Application, DA-07-04: Adopt Resolution recommending City Council approval of development agreement

Application, DS-08-04: Adopt Resolution approving project development schedule

BACKGROUND

The overall project consists of five single-family dwellings on an approximate 0.74-acre parcel. The project was awarded five building allotments through the Residential Development Control System (RDSCS) as follows: two units for FY 2007-08 and three units for FY 2008-09. The two, FY 07-08 allotments have since expired leaving the applicant with only three remaining building allotments. On October 28, 2008, the Planning Commission reviewed the applicant's request for a zoning amendment, development agreement and development schedule. The items, however, were continued to Jan. 27, 2009 and subsequently tabled due to unresolved issues regarding project density and lot configuration. Since that time, Planning Staff and the applicant team have worked together to resolve the planning issues. The project has been redesigned to comply with the development standards of the R1(7,000) zoning district. Therefore, a zoning amendment to establish a planned development is no longer needed. For the Commission's reference, copies of the previous and currently proposed project master plans are attached. Tonight the applicant is requesting approval of only a Development Agreement and Development Schedule.

CASE ANALYSIS

Project development agreements for residential projects approved through RDCS are required as a formal contract between the applicant and the City. The development agreement formalizes the commitments made during the RDCS process and establishes the 'commence construction' deadline for the project. The project specific commitments are identified in Paragraph 14 of the development agreement and the 'commence construction' deadline is contained in Exhibit B. It should be noted Exhibit B incorporates a 12-month extension of time. The standard deadline to commence construction on Fiscal Year 2008-09 building allotments is June 30, 2009. However, given the substantial delay resulting from an extended environmental review process, incorrect direction provided by Planning staff, and the time needed to redesign the project, the applicant is requesting 12 additional months to commence construction on the three building allotments (see attached email from applicant). Staff supports the 12-month extension.

In accordance with Planning Commission Policy PCP-06-01, the remaining milestone development dates are included in a separate Development Schedule resolution. The dates included in the Development Schedule have been amended from the October 28, 2008 meeting to reflect the 12-month extension requested for the commence construction deadline contained in the Development Agreement.

RECOMMENDATION

Staff recommends approval of the Development Agreement and Development Schedule as attached to this report.

Attachments

1. Development Agreement Resolution
2. Development Schedule Resolution
3. Email from Applicant
4. Previously Proposed Project Master Plan
5. Currently Proposed Project Master Plan

RESOLUTION NO.

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MORGAN HILL RECOMMENDING
APPROVAL OF DEVELOPMENT AGREEMENT
APPLICATION DA-07-04 FOR APPLICATION MMC-04-
09: TAYLOR/GINGER - MURRAY (APN 726-36-071)**

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government Code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.380 of the Morgan Hill Municipal Code, awarded three building allotments for application MMC-04-09: Taylor/Ginger-Murray; and

WHEREAS, said development agreement request was considered by the Planning Commission on October 28, 2008, continued to January 27, 2009 and subsequently tabled, and reconsidered at the regular meeting of May 12, 2009 at which time the Planning Commission recommended approval of development agreement application, DA-07-04: Ginger - Murray.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. ADOPTION OF DEVELOPMENT AGREEMENT. The Planning Commission hereby recommends to the City Council, adoption of the Development Agreement for MMC-04-09: Taylor/Ginger - Murray attached to this Resolution as Exhibit A.

**PASSED AND ADOPTED THIS 12TH DAY OF MAY 2009, AT A REGULAR MEETING OF
THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

ELAINE J. BUCK, Deputy City Clerk

SUSAN KOEPP-BAKER, Chair

Exhibit A

RECORD AT NO FEE PURSUANT TO GOVERNMENT CODE SECTION 6103

Recorded at the request of
and when recorded mail to:

City of Morgan Hill
Community Development Department
17555 Peak Avenue
Morgan Hill, CA 95037

RESIDENTIAL DEVELOPMENT AGREEMENT

This Agreement entered into this _____ day of _____, 2009, by and between _____, under the Agreement, ("Property Owner") and the CITY OF MORGAN HILL, a municipal corporation organized and existing under the laws of the State of California (the "City").

RECITALS

This Agreement predicated upon the following facts:

A. Government Code Sections 65864-65869.5 authorize the City of Morgan Hill to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property;

B. Under Section 65865, the City of Morgan Hill has adopted rules and regulations establishing procedures and requirements for consideration of Development Agreements as contained in Title 18, Chapter 18.80 of the City of Morgan Hill Municipal Code;

C. The parties hereto desire to enter into a Development Agreement and proceedings have been taken in accordance with the City's rules and regulations;

D. The City of Morgan Hill has found that the Development Agreement is consistent with the General Plan and commitments made through the Residential Development Control System of the City of Morgan Hill (Title 18, Chapter 18.78 of the Municipal Code);

E. In light of the substantial commitments required to be made by Property Owner and in exchange for the consideration to be provided to the City by Property Owner as set forth herein, the City desires to give Property Owner assurance that Property Owner can proceed with the project subject to the existing official policies, rules and regulations for the term of this Development Agreement;

F. On, _____ 2009, the City Council of the City of Morgan Hill adopted Ordinance No. _____, New Series approving the Development Agreement with the Property Owner, and the Ordinance thereafter took effect on _____ 2009.

NOW, THEREFORE, the parties agree:

1. Definitions. In this Agreement, unless the context otherwise requires:

- (a) "City" is the City of Morgan Hill.
- (b) "Project" is that portion of the development awarded building allotments as part of the Residential Development Control System by the City of Morgan Hill.
- (c) "Property Owner" means the party having a legal or equitable interest in the real property as described in paragraph 3 below and includes the Property Owner's successor in interest.
- (d) "Real Property" is the real property referred to in Paragraph 3 below.

2. Exhibits. The following documents are referred to in this Agreement, attached and made a part by this reference:

- Exhibit "A" - Development Allotment Evaluation
- Exhibit "B" - Development Review and Approval Schedule
- Exhibit "C" - Legal Description of Real Property

In the event there is any conflict between this Development Agreement and any of the Exhibits referred to above, this Development Agreement shall be controlling and superseding.

3. Description of Real Property. The real property which is subject to this Agreement is described in Exhibit "C".

4. Interest of Property Owner. Property Owner represents that he has a legal or equitable interest in the real property.

5. Assignment. The right of the Property Owner under this agreement may not be transferred or assigned unless the written consent of the City is first obtained which consent shall not be unreasonably withheld. The Property Owner shall provide the City with names, address, and phone numbers of the party to whom the property is to be transferred and Property Owner shall arrange an introductory meeting between the new owner, or his agent, and City Staff to facilitate consent of the City.

6. Recordation of Development Agreement. No later than ten (10) days after the City enters into this Agreement, the Clerk of the City shall record an executed copy of this Agreement in the Official Records of the County of Santa Clara. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, successors in interest to the parties to this Agreement; provided, however, that this Agreement shall not be binding upon any consumer, purchaser, transferee, devisee, assignee or any other successor of Property Owner acquiring a completed residential unit comprising all or part of the Project.

7. Relationship of Parties. Property Owner and the City agree that each is not the agent of the other for purposes of this Agreement or the performance hereunder, and Property Owner is an independent contractor of the City.

8. City's Approval Proceedings for Project. On March 1, 2005 the City of Morgan Hill approved a development plan for the real property as part of its Residential Control System Review. This approval is described in proceedings designated File No. MMC-04-09 Taylor-Murray, on file in the office of Community Development to which reference is made for further particulars. The development plan provides for the development of the property as follows:

Construction of three (3) single family homes as approved by the City of Morgan Hill Planning Commission.

9. Changes in Project.

(a) No substantial change, modification, revision or alteration may be made in the approved development plan without review and approval by those agencies of the City approving the plan in the first instance, which approval shall not be unreasonably withheld. No minor changes may be made in the approved development plan without review and approval by the Director of Community Development of the City, or similar representation if the Director is absent or the position is terminated, which approval shall not be unreasonably withheld.

(b) Any change specified herein and approved by this Development Agreement shall be deemed to be an allowable and approved modification to the Development Plan.

(c) In the event an application to change, modify, revise or alter, the development plan is presented to the Director of Community Development or applicable agencies of the City for review and approval, the schedule provided in Exhibit "B" shall be extended for a reasonable period of time as agreed to by the parties hereto to accommodate the review and approval process for such application.

(d) In the event the developer is unable to secure construction liability insurance because the project contains attached dwellings, the developer may convert the attached units into zero lot line or reduced setback detached units, subject to the review and approval of the Architectural Review Board. A zero lot line or reduced setback detached unit is defined as a dwelling physically separated from an adjacent dwelling on a separate lot of record but architecturally connected by a design element to give the appearance of attachment. In order to qualify for zero lot line or reduced setback detached units, evidence shall be provided to the City that the developer is unable to obtain construction liability insurance due specifically to the attached dwellings. This provision is contingent upon City Council approval of amendments to Title 18 of the Morgan Hill Municipal Code (the Zoning Code) to allow zero lot line or reduced setback detached units.

10. Time for Construction and Completion of Project.

(a) Securing Building Permits and Beginning Construction. Unless excused from performance as provided in paragraph 27 hereof, Property Owner agrees to secure building permits by (see Exhibit "A") and to begin construction of the Project in accordance with the time requirements set forth in the Uniform Building Code and the City's Residential Development Control System (see Exhibit "B") as these exist on the date of execution of this Agreement. In the event Property Owner fails to comply with the above permit issuance and beginning construction dates, and satisfactory progress towards completion of the project in accordance with the Residential Development Control System, the City, after holding a properly noticed hearing, may rescind all or part of the allotments awarded to the Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments.

(b) Progress Reports Until Construction of Project is Complete. Property Owner shall make reports to the progress of construction in such detail and at such time as the Community Development Director of the City of Morgan Hill reasonably requests.

(c) City of Morgan Hill to Receive Construction Contract Documents. If the City reasonably requests copies of off-site and landscaping contracts or documents for purpose of determining the amount of any bond to secure performance under said contracts, Property Owner agrees to furnish such documents to the City and the City agrees to maintain the confidentiality of such documents and not disclose the nature or extent of such documents to any person or entity in conformance with the requirements of the California Public Records Act.

(d) Certificate of Completion. Within thirty (30) days after completion to the City's satisfaction of 25% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 50% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 75% of the total number of units, and after all public and private improvements have been completed to the City's satisfaction, the City shall provide Property Owners with an instrument in recordable form certifying completion of that portion of the project. Within thirty (30) days after completion to the City's satisfaction of 100% of the total number of units, the City shall provide Property Owners with an instrument in recordable form certifying completion of the entire project. Upon issuance of the certificate of completion for 100% of the total units, this Development Agreement shall be deemed terminated as to the entire project.

11. Hold Harmless. Property Owner agrees to defend and hold the City and its officers, agents, employees and representatives harmless from liability for damage or claims for damage for personal injury including death or claims for property damage which may arise as a result of the construction of the project by the Property Owner or his contractor, subcontractor, agent, employee or other person acting within the course and scope of the authority of Property Owner.

Property Owner further agrees to hold the City and its officers, agents, employees, and representatives harmless from liability for damages or claims for damages suffered or alleged to have been suffered as a result of the preparation, supply, and/or approval of the plans and specifications for the project by the City or its officers, agents, employees or representatives.

Nothing herein shall require or obligate Property Owner to defend or hold the City and/or its officers, agents, employees and representatives harmless from or against any damages, claims, injuries, death or liability resulting from negligent or fraudulent acts of the City or its officers, agents, employees or representatives.

12. Insurance. Property Owner shall not commence actual construction under this Agreement until Property Owner has obtained insurance as described herein and received the approval of the City Attorney of Morgan Hill as to form and carrier, which approval shall not be unreasonably withheld. Property Owner agrees to maintain such insurance from a date beginning with the actual commencement of construction of the Project and ending with the termination of the Agreement as defined in Paragraph 20.

(a) Compensation Insurance. Property Owner shall maintain Worker's Compensation Insurance for all persons employed by Property Owner at the site of the Project, not including the contractor and or subcontractors on the site. Property Owner shall require each contractor and subcontractor similarly to provide Worker's Compensation Insurance for themselves and their respective employees. Property Owner agrees to indemnify the City for

damage resulting from its failure to obtain and maintain such insurance and/or to require each contractor or subcontractor to provide such insurance as stated herein.

(b) Public Liability and Property Damage Insurance. Property Owner agrees to carry and maintain public liability insurance against claims for bodily injury, death or property damage to afford protection in the combined single limit of not less than One Million Dollars (\$1,000,000).

(c) Additional Insured. Property Owner shall obtain an additional insured endorsement to the Property Owner's public liability and property damage insurance policy naming the City, its elective and appointive boards, commissions, agents, and employees, as additional insured.

13. Cancellation of Insurance. On or before the commencement of actual construction of the Project, Property Owner shall furnish the City satisfactory evidence that the insurance carrier selected by the Property Owner and approved by the City will give the City of Morgan Hill at least ten (10) days prior written notice of cancellation or reduction in coverage of a policy.

14. Specific Restrictions on Development of Real Property. Notwithstanding the provisions of land use regulations otherwise applicable to the real property by virtue of its land use designation of Single Family Medium and zoning classification of R1-7,000, the following specific conditions of the Residential Development Control System building allotment approval govern the use of the property and control over provisions in conflict with them, whether lots are developed by the Property Owner or by subsequent property owners:

(a) Permitted uses of the property are limited to the following:

The Tentative map, Grading Plans and Precise Residential Development Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(b) Maximum density (intensity of use) is:

That shown on the Vesting Tentative map and Grading Plans and Precise Residential Development Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(c) Maximum height for each proposed building is:

That height shown on the Architectural plans as approved by the City of Morgan Hill under Site and Architectural Review Process.

(d) Landscaping and recreational amenities, as shown on Site, Architectural, Landscape and Grading Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(e) All public improvements shall be installed by the Property Owner along property frontages to the satisfaction of the Public Works Department consistent with the Site, Architectural, Landscape and Grading Plans as approved by the City of Morgan Hill Planning Commission and Site and Architectural Review Process.

(f) All architectural features and materials for all structures shall be constructed as shown on the Architectural plans as approved by the Site and Architectural

Review Process.

(g) Property Owner agrees to any other reasonable condition of approval resulting from subdivision, site review and environmental review, which conditions are on file with the City.

(h) Property Owner agrees to include the following School features in the development:

(i) Property Owner agrees to pay the district-adopted developer fees as provided by the Leroy F. Greene School Facilities Act of 1998.

(ii) Property owner will install the following off-site pedestrian safety improvements or traffic safety improvements near a MHUSD school:

- Off site safety improvement be based on the Safe Walking Route to School Study or e determined by the MHUSD along Peebles Ave and Monterey Rd to create a continuous safe walking route to Sobrato High School

(iii) Any proposed pedestrian and traffic safety improvements cannot be redundant of improvements committed to in other categories. The cost of the improvements must be valued at \$ 3300 per unit.

(iv) The project is located within a Community Facilities (Mello-Roos) District established by the Morgan Hill Unified School District to finance new school facilities. The Mello-Roos payment shall exceed by \$ 1100 or more per dwelling unit the Leroy F. Greene School Facilities Act (state-mandated) fees in effect on December 1st of the fiscal year of the competition

(i) Property Owner agrees to include the following Open Space improvements in the development:

(i) This 3 unit phase of the 5 unit project shall pay double the per unit Transfer of Development Credits (TDC) in-lieu fee at the time of issuance of building permits.

(j) Property Owner agrees to include the following Public Facility features in the development:

(i) The project shall grids water mains into the existing water system. Water lines will be gridded between Taylor Ave and Peebles Ave via Ginger and Rose Lane new water mains.

(ii) The project drainage shall be consistent with the City's storm drain system.

(iii) Applicant agrees to install full street improvements along Ginger Way Extension and Rose Lane at a cost of more then \$12,506 per unit.

(iv) Project storm drain lines that are to be maintained by the city will be constructed entirely within the paved area of the street (curb to curb), or

in a location acceptable to the Director of Public Works. Private rear yard storm drains will be maintained by the homeowners.

(k) The Property Owner agrees to provide the following **Park and Recreation** improvements:

- (i) Applicant agrees to pay the standard Park in-lieu fee.
- (ii) In addition to the standard park in-lieu fee the applicant will pay the lesser of triple the required in lieu park fees or \$1100 per point up to \$6600 per unit.

(l) Property Owner agrees to include the following **Housing Types & Housing Needs** in the development:

- (i) Project shall provide one unit to be sold as a moderate non-restricted unit.
- (ii) The applicant agrees to pay double the standard housing mitigation fee computed at ten percent of the total project (including replacement units).

(m) Property Owner agrees to include the following **Quality of Construction** features in the development:

- (i) All homes will have EPA "Energy Star" labeled windows with low-e coatings and vinyl or metal frames,
- (ii) Provides two separately zoned high-efficiency heating systems in units over 3000 square feet, and units less than 3000 square feet whose floor plans allow effective dual-zoning.
- (iii) At least 60 percent of the dwelling units in the project must be dual-zoned and all units must include the installation of high efficiency gas furnaces with 90 percent efficiency rating or greater.
- (iv) Installation of air conditioning units with high efficiency condensing unit with a SEER rating of 12 or higher. Must be installed in more than 60 percent of the dwelling units in the project.
- (v) Recirculating hot water system with demand pumping.
- (vi) Installation of cast-iron drainage pipe and piping insulation between floors for sound reduction of plumbing.
- (vii) Installation of future ready wiring concepts such as home running phone lines from all habitable rooms directly to main phone box rather than looping using RJ6 for television/video and high speed computer access, and CAT5R or equivalent for telephone lines.

- (viii) Class A roof covering such as lightweight concrete tile, architectural grade composition shingle or better.
- (ix) Glued and screwed sub-floors, insulation of interior walls for sound.
- (x) TJI floor joists.
- (xi) Pre-plumb gas lines to dryer along with 220 volt outlet.
- (xii) Use at least two different roof lines and two different pitches throughout the project, i.e. gable, hipped, dormers, Mansard, etc.
- (xiii) Each standard trim and base color must represent no more than 15 of the project

(o) The Property Owner agrees to provide the following **Safety and Security** improvements:

- (i) Provides a first aid kit with a poison control document to be installed in the kitchen area of the home.
- (ii) Provide outdoor lighting to meet all police department specifications.
- (iii) Install illuminated address numbers for each unit and painted reflective curb numbers where possible.
- (iv) Noncombustible siding is used on at least 75 percent of the total units and comprises at least 50 percent of the siding of an individual unit.
- (v) Installation of an intrusion, fire alarm and heat detector system, monitored by a central station, or to include auto dialer which meets City ordinance.
- (vi) Provides residential fire sprinkler systems according to NFPA Chapter 13D specifications.
- (vii) Hardwired carbon monoxide detection device or devices with battery backup. The installation of the devices are to be located per manufacturer's requirement with at least one detector per floor of the residence.

(s) The Property Owner shall record constructive notice on the Final Parcel Map for the development that each lot is subject to the requirements of this Development Agreement, and that commitments under the Agreement which the City has permitted the Property Owner to delay must be fulfilled by the next subsequent property owners.

(t) The project shall provide the following information, by address for each unit, to the Community Development Department:

- (i) Date of sale
- (ii) The number of bedrooms
- (iii) The final sales price

This information shall be reported on an annual basis for the calendar year and is due to the City by March 30 of the following year for every year until the project is completed and all units are sold.

15. Effect of Agreement on Land Use Regulations.

(a) Unless otherwise provided herein or by the provisions of the Residential Development Control System, the rules, regulations and official policies governing permitted uses of the real property, governing density and governing the design, improvement and construction standards and specifications applicable to development of the real property are those rules, regulations and official policies, including without limitation building code requirements, in force at the time of the execution of this Agreement.

(b) This Agreement does not prevent the City, in subsequent actions applicable to the real property, from applying new rules, regulations and policies which do not conflict with those rules, regulations and policies applicable to the real property as set forth in Paragraph 14 and in effect at the time of the execution of this Agreement. Any rules, regulations or policies enacted by the City subsequent to the execution of this Agreement which are in conflict with those rules, regulations and policies in effect at the time of the execution of this Agreement or in conflict with the terms of this Agreement shall not be applied to the Project.

(c) The City shall be entitled to impose development fees in effect at the time a vested tentative map or other equivalent map is approved, rather than those in effect as of the date of this Agreement. The City shall be entitled to apply building standards in effect at the time the building permits are actually issued, rather than those in effect as of the date of this Agreement.

(d) This Agreement does not prevent the City from denying or conditionally approving any subsequent development project application on the basis of such existing or new rules, regulations and policies.

(e) Nothing contained herein will give Property Owner a vested right to develop the described Project or to obtain a sewer connection for said Project in the absence of sewer capacity available to the Project.

16. State or Federal Law. In the event that state or federal laws, or regulation, enacted after this Agreement have been entered into, prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations.

17. Periodic Review.

(a) The City shall review this Agreement at least at four times per year and on a schedule to assure compliance with the Residential Development Control System, at which time the Property Owner is required to demonstrate good faith compliance with the terms of this Agreement.

(b) If, as a result of such periodic review, the City finds and determines, on the basis of substantial evidence, that Property Owner has not complied in good faith with the terms or conditions of this Agreement, the City may rescind all or part of the allotments awarded to Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments.

18. Amendment or cancellation of Agreement. This Agreement may be amended, or

canceled in whole or in part, by mutual consent of the parties and in the manner provided for in California Government Code Section 65868, 65867 and 65867.5.

19. Enforcement. Unless amended or canceled pursuant to Paragraph 18 hereof, this Agreement shall be enforceable by any party to it notwithstanding any change in any applicable general or specific plan, zoning, subdivision, or building regulation adopted by the City, which alters or amends the rules, regulations or policies specified in Paragraph 14 and 15.

20. Termination of Agreement. This Agreement shall terminate upon the occurrence of one or more of the following events or conditions:

(a) The City finds and determines, in accordance with the terms of Paragraph 17, that Property Owner has not reasonably complied in good faith with the terms of this Agreement and the City elects to terminate this Agreement;

(b) Property Owner gives the City written notice of its decision to terminate this Agreement;

(c) Property Owner and the City mutually consent to termination of this Agreement in accordance with the terms of Paragraph 18; or

(d) Issuance of the Certificate of Completion referred to in Paragraph 10(d), provided that this Agreement shall only terminate with respect to that part of the Project to which the Certificate of Completion applies.

21. Default by Property Owner. Property Owner shall be in default under this Agreement upon the occurrence of one or more of the following events or conditions:

(a) If a written warranty, representation or statement was made or furnished by Property Owner to the City with respect to this Agreement which was known or should have been known to be false in any material respect when it was initially made;

(b) A finding and determination by the City of Morgan Hill made following a periodic review under the procedure provided for in Government Code Section 65856.1 that upon the basis of substantial evidence, the Property Owner has not complied in good faith with one or more of the material terms or conditions of this Agreement.

22. Default by the City of Morgan Hill. The City is in default under this Agreement upon the occurrence of one or more of the following events or conditions:

(a) The City, or its boards, commissions, agencies, agents or employees, unreasonably fails or refuses to take action on proposals, applications or submittal presented by the Property Owner within a reasonable time after receipt of such proposals, applications or submittal.

(b) The City unreasonably fails or refuses to perform any obligation owed by it under this Agreement.

(c) The City imposes upon Property Owner rules, regulations or official policies governing permitted uses, density, maximum height and size of proposed structures and reservations (dedications) of land for public purposes of the Property or the design, improvement and construction standards and specifications applicable to the development of the Property, which are not the same in all material respects as those rules, regulations and official policies in effect at the time of the execution of this Development Agreement and which adversely and materially affect the Project.

23. Cure of Default.

(a) This section shall govern cure of defaults except to the extent to which it may be in conflict with the Residential Development Control System. Upon the occurrence of an event of default by either party, the party not in default (the "non-defaulting party") shall give the party in default (the "defaulting party") written notice of the default. The defaulting party shall have thirty (30) calendar days from the date of notice (subject to subsection (b) below) to cure the default if such default is curable within thirty (30) days. If such default is so cured, then the parties need not take any further action except that the defaulting party may require the non-defaulting party to give written notice that the default has been adequately cured.

(b) Should the default not be cured within thirty (30) calendar days from the date of notice, or should the default be of a nature which cannot be reasonably cured within such thirty (30) day period and the defaulting party has failed to commence within said thirty (30) day period and thereafter diligently prosecute the cure, the non-defaulting party may then take any legal or equitable action to enforce its rights under this Development Agreement.

24. Remedies.

(a) In the event Property Owner defaults under the terms of this Agreement, the City, after holding a properly noticed hearing may rescind all or part of the allotments awarded to Property Owner and award said allotments to the next Residential Development Control System applicant who has qualified for such allotments or may terminate or modify this Development Agreement.

(b) In the event the City defaults under the terms of this Agreement, in no event shall the Property Owner be entitled to any of the following:

- (i) Punitive damages;
- (ii) Damages for lost profits;
- (iii) Damages for expenditures or costs incurred to the date of this Agreement.

(c) The parties hereby explicitly acknowledge and agree that remedies for any issue or dispute arising out of the performance or non-performance of this Agreement are limited to those provided under actions for mandamus, declaratory relief and/or specific performance. The parties further agree that in no event shall any party shall maintain any action, claim or prayer for damages pursuant to any alleged federal or state constitutional or statutory claim, or incurred as a result of an alleged breach of this Agreement.

25. Attorneys Fees and Costs. If legal action by either party is brought because of breach of this Agreement or to enforce a provision of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees and court costs.

26. Notices. All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid addressed as follows:

City of Morgan Hill:

Community Development Department
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037

With a copy to:

City Clerk
City of Morgan Hill
17555 Peak Avenue
Morgan Hill, CA 95037

Property Owner:

Scott Murray
175 E. Main Avenue
Morgan Hill, CA 95037

A party may change the address shown above by giving notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

27. Force Majeure. Either party hereto, acting in good faith, shall be excused from performing any obligations or undertakings provided in this Agreement in the event and for so long as the performance of any such obligation is prevented, delayed, retarded or hindered by an act of God, fire, earthquake, floods, explosion, actions of the elements, war, invasion, insurrection, riot, mob violence, strikes, lockouts, eminent domain, inability to obtain labor or materials or reasonable substitutes thereof, non City governmental restrictions, regulations or controls, including revisions to capacity ratings of the wastewater plant by the Regional Water Quality Control Board, the State Water Resources Board, or any court action or judicial orders; unreasonable delays in processing applications or obtaining approvals, consent or permits, filing of legal actions, or any other cause, not within the reasonable control of such party. Active negligence of either party, its officers, employees or agents shall not excuse performance.

28. Rules of Construction and Miscellaneous Terms.

(a) The singular includes the plural; the masculine gender includes the feminine; "shall" is mandatory; "may" is permissive.

(b) If a part of this Agreement is held to be invalid, the remainder of the Agreement is not affected.

(c) This writing contains in full, the final and exclusive Agreement between the parties.

(d) The time limits set forth in this Agreement may be extended by mutual consent of the parties.

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto on the day and year first above written.

APPROVED AS TO FORM:

CITY OF MORGAN HILL

DANNY WAN
City Attorney

J. EDWARD TEWES, City Manager

Attest:

IRMA TORREZ, City Clerk

PROPERTY OWNER(S)

**(ALL SIGNATURES, EXCEPT CITY CLERK AND CITY ATTORNEY,
MUST BE ACKNOWLEDGED BY A NOTARY)**

EXHIBIT "A"

DEVELOPMENT ALLOTMENT EVALUATION

MMC-04-09: Taylor/Ginger - Murray

(See Entire Documents on File in the
Community Development Department - City Hall)
CITY OF MORGAN HILL

EXHIBIT "B"

COMMENCEMENT OF CONSTRUCTION

MMC-04-09: Taylor/Ginger - Murray

FY 2008-09 (3 building allotments)

Commence Construction:

FY 2008 -09 (3 units)

June 30, 2010

Failure to commence construction by the date listed above shall result in the loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least three (3) dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

EXHIBIT "C"

**LEGAL DESCRIPTION
MMC-04-09: Taylor/Ginger - Murray**

The land referred to herein is situated in the State of California, County of Santa Clara, City of Morgan Hill and is described as follows:

SITUATED in the City of Morgan Hill, County of Santa Clara, State of California and more particularly BEING A PORTION of Lot 4 as shown upon that 'Lot Line Adjustment Parcel Map' filed in Book 789 of Maps at Pages 16, 17, and 18, Santa Clara County Records, described as follows:

BEGINNING at a point on the Southeasterly right-of-way line of Peebles Avenue (30.00 feet wide from centerline) that is Northeasterly of and 35.43 feet distant from the Northwestern most corner of Lot 4, as said Avenue and Lot are shown upon that above referred Parcel Map and running thence along said Southeasterly right-of-way line,

North 51°55'00" East, 64.57 feet

To the Northern most corner of said Lot; thence leaving said Southeasterly right-of-way line and running along the boundary of said Lot 4,

South 39°30'00" East, 140.00 feet (shown upon said Map as South 39°21'21" East, 139.99 feet); thence

North 51°55'00" East, 20.93 feet (shown upon said Map as 21.90 feet); thence

South 39°30'00" East, 100.00 feet; thence

South 51°55'00" West, 191.72 feet (shown upon said Map as 191.55 feet); thence

North 39°30'00" West, 100.00 feet; thence

North 51°55'00" East, 20.80 feet (shown upon said Maps as 20.01 feet); thence

North 39°30'00" West, 45.06 feet

To a point that is 94.94 feet distant from the Western most corner of those Lands conveyed to Scott Murray by Grant Deed recorded December 28, 2004 as Document No. 18163840, Santa Clara County Records; thence leaving the said boundary of Lot 4,

North 50°31'13" East, 85.39 feet; thence

North 39°29'36" West, 92.83 feet to the

POINT OF BEGINNING and containing therein 32,142 square feet more or less.

(APN 726-36-071)

RESOLUTION NO.

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MORGAN HILL APPROVING A
DEVELOPMENT SCHEDULE FOR THREE, FISCAL
YEAR 2008-09 BUILDING ALLOTMENTS AWARDED
TO APPLICATION MMC-04-09: TAYLOR/GINGER-
MURRAY (APN 726-36-071)**

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.380 of the Morgan Hill Municipal Code, awarded three building allotments for application MMC-04-09: Taylor/Ginger-Murray; and

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System (RDSCS), Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, prior to October 25, 2006, Development Agreements incorporated a development schedule to ensure projects comply with the statutory deadlines of the RDSCS; and

WHEREAS, to extend deadlines outlined in the development schedule, a property owner/developer was required to file an application to amend the Development Agreement which required public hearings and adoption of an ordinance by the City Council; and

WHEREAS, rather than continuing to require developers to go through a legislative process to amend their development schedules, the Planning Commission adopted Policy PCP-06-01 which allows development schedules and extension of time requests to be approved and adopted by Planning Commission Resolution on consent calendar; and

WHEREAS, PCP-06-01 became effective on October 25, 2006; and,

WHEREAS, the development schedule for application MMC-04-09: Taylor/Ginger - Murray was considered by the Planning Commission on October 28 2008, continued to January 27, 2009 and subsequently tabled, and reconsidered at the regular meeting of May 12, 2009 at which time the Planning Commission approved a project development schedule.

**NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES
RESOLVE AS FOLLOWS:**

SECTION 1. ADOPTION OF DEVELOPMENT SCHEDULE. The Planning Commission hereby adopts a Development Schedule (application DS-08-04) for three, FY 2008-09 building allotments awarded to project MMC-04-09: Taylor/Ginger - Murray attached to this Resolution as Exhibit "A".

**PASSED AND ADOPTED THIS 12TH DAY OF MAY 2009, AT A REGULAR MEETING OF
THE PLANNING COMMISSION BY THE FOLLOWING VOTE:**

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

ELAINE J. BUCK, Deputy City Clerk

SUSAN KOEPP-BAKER, Chair

AFFIDAVIT

I, **Scott Murray**, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

Scott Murray, Applicant

Date: _____

EXHIBIT "A"

DEVELOPMENT SCHEDULE MMC-04-09: Taylor/Ginger - Murray FY 2008-09 (3 building allotments)

- | | | |
|-------------|---|--------------------|
| I. | ZONING APPLICATION | n/a |
| | | |
| II. | SITE REVIEW APPLICATION
Approved: | September 25, 2009 |
| | | |
| III. | FINAL MAP SUBMITTAL
Map, Improvements Agreement and Bonds: | October 30, 2009 |
| | | |
| IV. | BUILDING PERMIT SUBMITTAL
Submit plans to Building Division for plan check: | February 26, 2010 |
| | | |
| V. | BUILDING PERMITS
Obtain Building Permits: | April 30, 2010 |

Failure to obtain building permits by the dates listed above and commence construction by the dates listed in the Development Agreement (Application No. DA-07-04) shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 3 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

From: Scott Murray [smurray@interorealestate.com]

Sent: Thursday, May 07, 2009 10:41 AM

To: Rebecca Tolentino

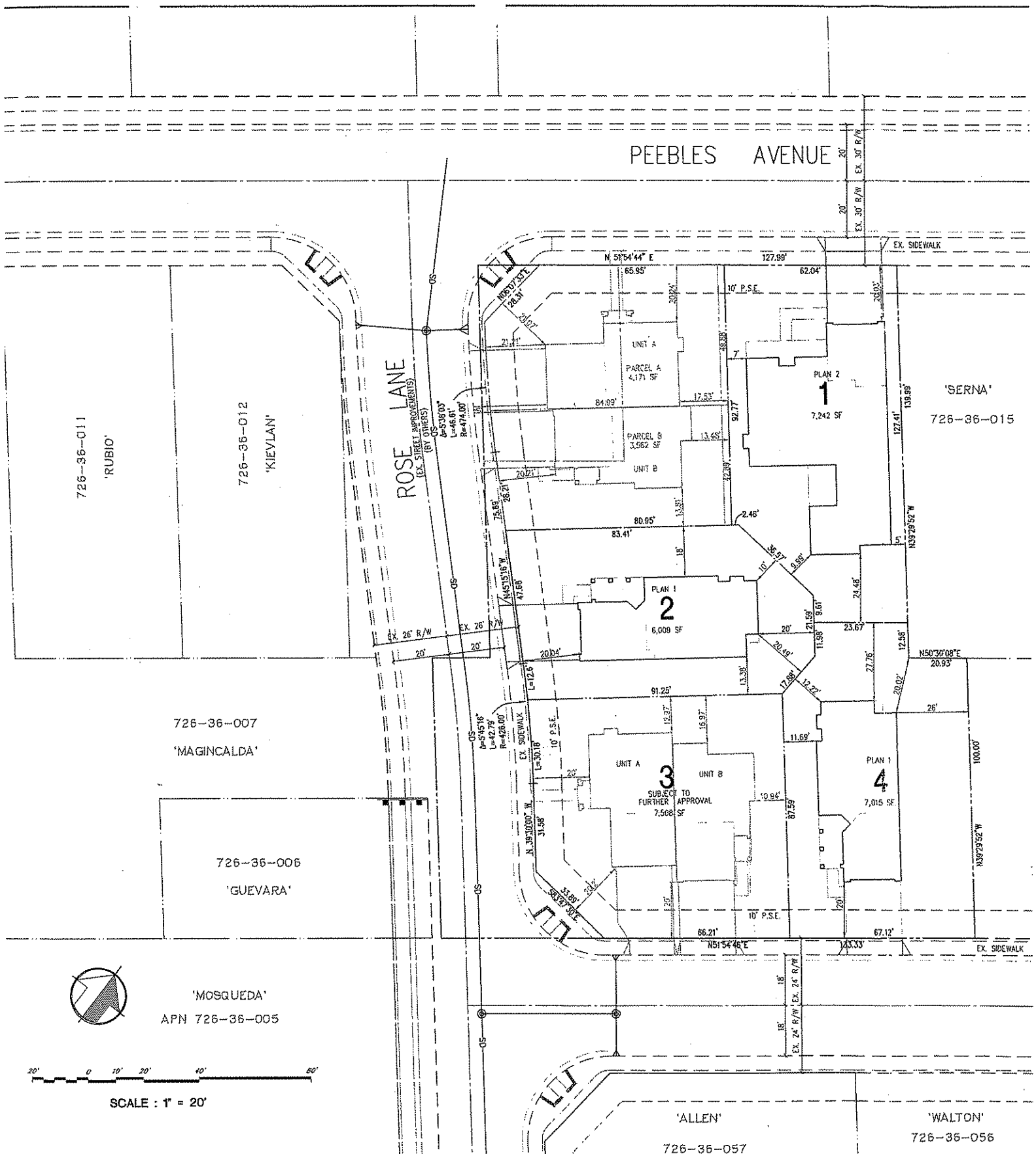
Subject: RE: Ginger-Murray Development Agreement and Development Schedule

Hi Rebecca-

Sorry for the delay of this email. I will need a 12 month extension on all dates regarding the attached development schedule. The reason for the extensions being the delays I accrued with city staff. The environmental review alone took over 7 months to be completed. Then I was told by Heather to redesign the lot layouts, which were rejected by staff at a later date. And finally, it took me meeting with staff and 3 months later to get the green light to proceed with the project. I hope you feel better, email me if you need any other information.

Thanks for your help.

Scott Murray



Lands of Murray

site development plan

(Previously Proposed Master Plan)



MEMORANDUM

To: PLANNING COMMISSION

Date: MAY 12, 2009

From: COMMUNITY DEVELOPMENT DEPARTMENT

Subject: DEVELOPMENT AGREEMENT AMENDMENT & DEVELOPMENT SCHEDULE AMENDMENTS FOR: DAA 04-21D/DSA 07-20C: Barrett-Syncon/B of A, DAA 07-03A/DSA 07-17: Central-UHC, DAA 06-05/DSA 06-02: E. Main-Ahlin, DAA 06-06C/DSA 06-01C: Monterey-Gunter, DAA-05-09C/DSA 05-01D: Del Monte-Giovanni.

REQUEST

Request to amend the commencement of construction dates within the residential development agreements for projects awarded a building allotment under the City's Residential Development Control System (RDCS). Also requested is amendment to the project development schedules.

RECOMMENDATION

Applications:

- 1) Open/conduct public hearings on requests "a" through "e".
- 2) Table request "e".
- 3) Adopt resolutions "a" through "d" recommending approval of the amended Development Agreement and approving each project's development schedule as amended.

Processing Deadline: 10-27-09

CASE ANALYSIS

Five projects have pending June 30, 2009, commencement of construction deadlines and each has fallen behind with their development schedule. Those projects are: **a.** DAA 04-21D/DSA 07-20C: Barrett-Syncon/B of A, **b.** DAA 07-03A/DSA 07-17: Central-UHC, **c.** DAA 06-05/DSA 06-02: E. Main-Ahlin, **d.** DAA 06-06C/DSA 06-01C: Monterey-Gunter, **e.** DAA-05-09C/DSA 05-01D: Del Monte-Giovanni.

The Planning Division notified each of the applicants regarding the up-coming commencement of construction deadline. Four of the five responded with the appropriate applications. The fifth project, "e. Del Monte-Giovanni" has failed to file for a development agreement or development schedule amendment. Therefore, staff is recommending that project "e. Del Monte-Giovanni," be tabled.

In each of the following tables, staff has outlined for each project original schedule dates, past extensions granted and the applicant's current request. The far right column within each of the tables contains staff's recommendation. The letter of request from each applicant is attached.

a. DAA 04-21D/DSA 07-20 D: Barrett-Syncon/BofA

Request: The applicant has requested an amendment to the project development agreement for the Lone Oak project located on the northwest corner of the intersection of Barrett Ave. and San Ramon Dr. The specific amendment request to the development agreement is a 12 month extension of the commencement of construction dates.

DEVELOPMENT AGREEMENT - Barrett-Syncon/BofA

Commencement of Construction	Original Dates	Dec. 2007	June 2008	Current Request	Staff Recommendation
FY 2007-08 (13 units)	04-30-08	(+2 mo) 06-30-08	(+12 mo)06-30-09	(+12 mo) 06-30-10	(+18 mo) 12-30-10
FY 2008-09 (5 units)	04-30-09		(+14 mo)06-30-10	(+12 mo) 06-30-11	Concur w/applicant's request
FY 2009-10 (14 units)	04-30-10		(+14 mo)06-30-10	(+12 mo) 06-30-11	Concur w/applicant's request
FY 2010-11 (15 units)					06-30-11

Recommendation: Staff concurs with the applicant's 12-month extension request but is recommending an additional 6 months (18 months total) for the FY 07-08 allocation. The project has been foreclosed on and is currently owned by Bank of America. They have hired a development service company to market the project. Given the current situation, staff is estimating it could take 3-4 months to find a buyer, 1-2 months to complete the purchase and another 6 months for a new owner secure new City approvals (site review & plan check) for use of their product within the project. Therefore staff is recommending an additional 6 months to allow a new owner adequate time to meet the FY 2007-08 commencement of construction deadline. Staff also recommends incorporation of the 15 allocations awarded in February for FY 2010-11 as an on-going project.

DEVELOPMENT SCHEDULE - Barrett-Syncon/BofA

Final Map	Original Dates	May 2008	Current Request	Staff Recommendation
FY 2007-08 (13 units)	02-01-07			
FY 2008-09 (5 units)	02-01-08			
FY 2009-10 (14 units)	09-01-09	(+4 mo) 01-30-10		(+12 mo) 01-30-11
FY 2010-11 (15 units)				01-30-11
Building Permit Submittal	Original Dates	May 2008	Current Request	Staff Recommendation
FY 2007-08 (13 units)	06-30-07			
FY 2008-09 (5 units)	06-30-08			
FY 2009-10 (14 units)	06-01-09	(+8 mo) 02-28-10		(+12 mo) 02-28-11
FY 2010-11 (15 units)				02-28-11
Obtain Building Permits	Original Dates	May 2008	Current Request	Staff Recommendation
FY 2007-08 (13 units)	09-01-07	(+10 mo)04-30-09		(+18 mo) 10-30-10
FY 2008-09 (5 units)	09-01-08	(+14 mo)04-30-10		(+12 mo) 04-30-11
FY 2009-10 (14 units)	09-01-09	(+7 mo) 04-30-10		(+12 mo) 04-30-11
FY 2010-11 (15 units)				04-30-11

(a. Barrett-Syncon/BofA Cont.)

Request/Recommendation: The applicant did not make a specific request to amend the project development schedule however, staff is recommending approval of amendments to the final map, and building permit submittal dates for FY 2009-10 and approval of a 12-18 month extension for Obtain Building Permit dates for FY 2007-08, 2008-09 and 2009-10. Incorporation of date for the 15 on-going project allocations awarded for FY 2010-11 is also recommended.

b. DAA 07-03/DSA 07-17: Central-UHC

Request: The applicant has requested an amendment to the project development agreement for the New Horizons project located on the southeast corner of the intersection of McLaughlin Ave. and Central Ave. The specific amendment request is a 12 month extension of the commencement of construction dates.

DEVELOPMENT AGREEMENT- Central-UHC

Commencement of Const.	Original Dates	Current Request	Staff Recommendation
FY 2008-09 (12 units)	06-30-09	(+12 mo) 06-30-10	Concur w/applicant's request
FY 2009-10 (37 units)	06-30-10	(+12 mo) 06-30-11	Concur w/applicant's request

Recommendation: Staff concurs with the applicant's 12-month extension request. The project has completed plan check and is simply awaiting the next round of Federal Tax credit applications (due June 9th) to secure financing.

DEVELOPMENT SCHEDULE - Central-UHC

Obtain Building Permits	Original Dates	Current Request	Staff Recommendation
FY 2008-09 (12 units)	04-01-09	(+12 mo) 04-30-10	Concur w/applicant's request
FY 2009-10 (37 units)	04-01-10	(+12 mo) 04-30-11	Concur w/applicant's request

Request/Recommendation: The applicant did not make a specific request to amend the project development schedule however staff is recommending approval of amendments to the Obtain Building Permit dates for 2008-09 & 2009-10.

c. DAA 06-05C/DSA 06-05B: E. Main-Ahlin

Request: The applicant has requested an amendment to the project development agreement for the Huntington Square project located on the southwest corner of the intersection of Main Ave. and Butterfield Blvd. The amendment request includes a 12 month extension of the commencement of construction dates and 36 to 12 month extension of the Development Schedule dates.

DEVELOPMENT AGREEMENT - E. Main-Ahlin

Commence of Construction	Original Dates	March 2008	Current Request	Staff Recommendation
FY 2007-08 (50 units)	06-30-08	(+12 mo) 06-30-09	(+12 mo) 06-30-10	Concur w/applicant's request
FY 2008-09 (43 units)	06-30-09	(+12 mo) 06-30-10	(+12 mo) 06-30-11	Concur w/applicant's request
FY 2009-10 (6 units)	06-30-10		(+12 mo) 06-30-11	Concur w/applicant's request

(c. E. Main-Ahlin cont.)

DEVELOPMENT SCHEDULE - E. Main-Ahlin

Final Map	Original Dates	May 2008	Current Request	Staff Recommendation
FY 2007-08 (48 units)	09-30-07		48 lot map recorded	
FY 2007-08 (2 units)			(+36 mo) 09-30-10	Concur w/applicant's request
FY 2008-09 (43 units)	07-30-08	(+6 mo) 01-30-10	(+12 mo) 01-30-11	Concur w/applicant's request
FY 2009-10 (16 units)	07-30-09		(+12 mo) 01-30-11	Concur w/applicant's request
Building Permit Submittal	Original Dates	May 2008	Current Request	Staff Recommendation
FY 2007-08 (14 units)	12-01-07	(+14 mo)02-28-09	Applied for 14 building permits	
FY 2007-08 (36 units)			(+12 mo) 02-28-10	Concur w/applicant's request
FY 2008-09 (5 units)	08-15-08	(+5 mo)02-28-10	(+12 mo) 02-28-11	Concur w/applicant's request
FY 2009-10 (14 units)	08-15-09	(+5 mo)02-28-10	(+12 mo) 02-28-11	Concur w/applicant's request
Obtain Building Permits	Original Dates	March 2008	Current Request	Staff Recommendation
FY 2007-08 (14 units)	03-31-08	(+13 mo)04-30-09	(+12 mo) 04-30-10	Concur w/applicant's request
FY 2007-08 (36 units)				
FY 2008-09 (43 units)	09-30-08	(+7 mo) 04-30-10	(+12 mo.) 04-30-11	Concur w/applicant's request
FY 2009-10 (6 units)	09-30-09	(+7 mo)04-30-10	(+12 mo.) 04-30-11	Concur w/applicant's request

Recommendation: Staff concurs with the applicant's 12-month extension requests for both the development agreement and development schedule. The project has secured all necessary entitlements and has recorded a 48-lot final map. The project is completing plan check and is getting close to beginning construction on 14 units. The building configuration in groups of 6, 7 & 8 units has resulted in 2 remnant FY 2007-08 allocations, therefore staff is recommending a 36 month extension of the final map date for the two 2007-08 allocations and a 12 month extension of the "building permit submittal" and "obtain" date for the 36 remaining FY 2007-08 allocations.

d. DAA 06-06C/DSA 06-01C: Monterey-Gunter

Request: The applicant has requested an amendment to the project development agreement and development schedule for a 15-unit mixed use project on a one acre site located at 17620 Monterey Rd., approximately 100 ft. north of Main Ave. The specific amendment request per the applicant's letter, is a 12-month extension of the commencement of construction and development schedule dates. However the exhibit attached to the letter suggests extensions of 12 to 15 months within the project's development schedule.

DEVELOPMENT AGREEMENT - Monterey-Gunter

Commence of Const.	Original Dates	May 2007	May 2008	Current Request	Staff Recommendation
FY 2006-07 (4 units)	04-30-07	(+12 mo)04-30-08	(+14 mo)09-21-09	(+12 mo) 09-31-10	Concur w/applicant's request
FY 2009-10 (11 units)	04-30-10		(+14 mo)06-30-11	(+12 mo) 06-30-12	6-30-11 No change

d. Monterey-Gunter Cont.

DEVELOPMENT SCHEDULE - Monterey-Gunter

Subdivision and Zoning Application	Original Dates	May 2007	May 2008	Current Request	Staff Recommendation
FY 2006-07 (4 units)	06-30-07				
FY 2009-10 (11 units)	06-30-07		(+13 mo)07-31-08	(+12 mo) 07-31-09	Concur w/applicant's request
Site Review Application	Original Dates	May 2007	May 2008	Current Request	Staff Recommendation
FY 2006-07 (4 units)	9-30-06				Concur w/applicant's request
FY 2009-10 (11 units)	9-30-08		03-30-09	(+13 mo) 04-31-10	Concur w/applicant's request
Final Map	Original Dates	May 2007	May 2008	Current Request	Staff Recommendation
FY 2006-07 (4 units)	01-31-08		(+13 mo)02-27-09	(+14 mo) 04-31-10	Concur w/applicant's request
FY 2009-10 (11 units)	01-31-09		(+12 mo)02-26-10	(+15 mo) 05-31-11	(+8 mo) 10-30-10
Building Permit Submittal	Original Dates	May 2007	May 2008	Current Request	Staff Recommendation
FY 2006-07 (4 units)	08-01-06		(+30 mo)03-30-09	(+15 mo) 06-30-10	Concur w/applicant's request
FY 2009-10 (11 units)	05-15-09		(+9 mo) 05-15-10	(+14 mo) 08-15-11	(+8 mo) 01-30-11
Obtain Building Permits	Original Dates	May 2007	May 2008	Current Request	Staff Recommendation
FY 2006-07 (4 units)	01-31-07	(+8 mo) 09-30-07	(+13 mo)10-30-09	(+12 mo)10-30-10	Concur w/applicant's request
FY 2009-10 (11 units)	09-30-09		(+12 mo)09-30-10	(+15 mo)12 30-11	(+6 mo) 4-30-11

Recommendation: Staff concurs with the applicant's 12 month extension request for the development agreement and 12-15 month development schedule extension for the 4, FY 2006-07 allocations. However, it should be noted that granting this extension request would bring the extension total to 38 months. The maximum extensions granted to date for a project with FY 2006-07 allocations is 40 months.

At this time, staff does not recommend extension of the "commencement of construction" date for the FY 2009-10 allocations. The requested 12 month extension of the 11, FY 2009-10 allocations would exceed by 12 months, extensions granted to any other project with FY 2009-10 allocations. However, staff is recommending some adjustment of FY 2009-10 development schedule dates. The currently approved schedule has the project submitting for building permits 13 months in advance of the "commencement of construction" date and obtaining permits 9 months in advance of the "commencement of construction" date. The recommend adjustments would allow the applicant to submit and obtain building permits closer to the current June 30, 2011 commencement date.

e. **DAA 05-09C /DSA 05-01 D: Del Monte-Giovanni.**

The 6 unit Del Monte-Giovanni project is located on the east side of Del Monte Ave. approx. 80 ft north of Christine Lynn Dr. The project has a commencement of construction date of June 30, 2009. The applicant has been notified in writing, e-mail and by phone regarding the pending

expiration of the project building allocations. The project owner has not responded by filing the appropriate application and letter of request.

In anticipation of the applicant responding, this item was advertised for public hearing. Due to lack of action by the applicant, staff recommends tabling the item. If the applicant files an Exception to Loss of Building Allocation by June 1 the request to go to Council on June 24, then the applicant would need to file for a DAA & DSA to incorporate the new date into the project development agreement and development schedule. If the applicant fails to respond by June 1, the building allocations will expire and the project would need to re-compete for building allocations.

RECOMMENDATION SUMMARY

Due to the current housing and banking crisis, staff recommends the following amendments to the project development schedules and exhibit B of the project development agreements.

a. DAA 04-21D/DSA 07-20 D: Barrett-Syncon/BofA

- Amend Development Schedules Final Map, Building Permit Submittal and Obtain Building Permit dates by 12/18 mos.
- Amend Development Agreement "Commencement of Construction" dates by 18 mos. for FY 2007-08 allocations and 12 mos. for FY 08-09 & FY 09-10
- Incorporate 15, FY 2010-11 allocations into the project Development Schedule and Development Agreement.

b. DAA 07-03/DSA 07-17: Central-UHC

- Amend DS Obtain Building Permit dates by 12 mos.
- Amend DA "commencement" dates by 12 mos.

c. DAA 06-05C/DSA 06-05B: E. Main-Ahlin

- Amend DA "commencement" dates by 12 mos.
- Amend DS Final Map, Building Permit Submittal and Obtain Building Permit dates by 12 mos.

d. DAA 06-06C/DSA 06-01C: Monterey-Gunter

- For the FY 2006-07 allocations: amend DS Final Map, Building Permit Submittal and Obtain Building Permit dates by 12 mos.
- For the FY 2006-07 allocations: amend DA "commencement" dates by 12 mos.
- For the FY 2009-10 allocations: amend DS Sub. & Zoning application (+12), Site Review (+13) Final Map (+8 mo.), Building Permit Submittal (+8 mo.) and Obtain Building Permit (+6 mo.).
- For the FY 2009-10 allocations, no change in the "commencement of construction" date.

e. DAA 05-09C /DSA 05-01 D: Del Monte-Giovanni.

- Take no action, table application

Attachments:

Resolutions a-d

Applicant letters

RESOLUTION NO. 09-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING AN 18 MONTH EXTENSION OF THE FY 2007-08 ALLOCATIONS, A 12 MONTH EXTENSION OF THE FY 2008-09 & FY 2009-10 ALLOCATIONS, INCORPORATION OF 15, FY 2010-11 ALLOCATIONS AND APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MC 04-21: BARRETT-SYNCON HOMES, TO EXTEND BY 12 MONTHS THE DATE TO FILE FOR A FINAL MAP, SUBMIT FOR BUILDING PERMITS AND 18-12 MONTHS TO OBTAIN BUILDING PERMITS FOR FY 2009-10 ALLOCATIONS AND SET DATES FOR FY 2010-11 BUILDING ALLOTMENTS. (APNs 817-59-060 & 817-57-001)

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 47 building allotments for application MC-04-21: Barrett – Syncon Homes (13 allotments for FY 2007-08, 5 allotments for FY 2008-09, 14 allotments for FY 2009-10 and 15 allotments for FY 2010-11); and

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System (RDSCS), Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government Code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, in October, 2006, the City Council adopted a development agreement and established a development schedule for the awarded building allotments for applications MC-04-21: Barrett-Syncon Homes 52-unit development; and

WHEREAS, under Section 18.78.125.G of the Municipal Code, the City Council may grant an Exception to Loss of Building Allotment (ELBA) if it finds that the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140, or extended delays in environmental review, permit delays not the result of developer inaction, or allocation appeals processing; and

WHEREAS, the applicant has made significant progress in the project, including installing street improvements, utilities and construction of 7 units; and

WHEREAS, the applicant has been diligent in pursuing all necessary approvals but the housing market has significantly slowed, thus additional time is needed so sell existing units; and

WHEREAS, the City Council has previously recognized downturns in the housing market as circumstance for exceptions to the loss of building allocations.

WHEREAS, on October 25, 2006, the Planning Commission adopted Policy PCP-06-01, establishing a procedure to approve development schedules and extension of time requests by Planning Commission Resolution for projects receiving allotments through the RDCS; and

WHEREAS, the applicant is currently requesting to amend the development schedule as shown in the attached Exhibit A due to the downturn in the housing market; and

WHEREAS, the amended development schedule for application MC-04-21: Barrett-Syncon Homes/B of A, was considered by the Planning Commission at their regular meeting of May 12, 2009, at which time the Planning Commission approved the amended development schedule.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1.ADOPTION OF AMENDED DEVELOPMENT SCHEDULE. The Planning Commission hereby adopts the Amended Development Schedule for MC-04-21: Barrett-Syncon Homes as attached to this Resolution as Exhibit A.

SECTION 2. The Planning Commission recommends approval of the development agreement amendment as shown in the attached Exhibit B. The proposed amendment is to allow for an 18 month extension of the FY 2007-08 allocations, a 12 month extension of the FY 2008-09 & FY 2009-10 allocations and incorporation of the 15 FY 2010-11 allocations.

PASSED AND ADOPTED THIS 12TH DAY OF MAY 2009, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

, Deputy City Clerk

, CHAIR

EXHIBIT "A"

**DEVELOPMENT SCHEDULE MC-04-21: Barrett-Syncon Homes
FY 2007-08, 13 allocations/FY 2008-09, 5 allocations/FY 2009-2010, 14 allocations/FY 2010-
2011, 15 allocations.**

I. SUBDIVISION AND ZONING APPLICATIONS		
Applications Filed:		11-05-05
II. SITE REVIEW APPLICATION		
Application Filed:		12-01-06
III. FINAL MAP SUBMITTAL		
Map, Improvements Agreement and Bonds:		
FY 2007-08 (13 units)		02-01-07
FY 2008-09 (5 units)		02-01-08
FY 2009-10 (14 units)	<i>01-30-11</i>	<i>01-30-10</i>
<i>FY 2010-11 (15 units)</i>	<i>01-30-11</i>	
IV. BUILDING PERMIT SUBMITTAL		
Submit plans to Building Division for plan check:		
FY 2007-08 (13units)		06-30-07
FY 2008-09 (5 units)		06-30-08
FY 2009-10 (14 units)	<i>02-28-11</i>	<i>02-28-10</i>
<i>FY 2010-11 (15 units)</i>	<i>02-28-11</i>	
V. BUILDING PERMITS		
Obtain Building Permits:		
FY 2007-08 (13 units)	<i>10-30-10</i>	<i>04-30-09</i>
FY 2008-09 (5 units)	<i>04-30-11</i>	<i>04-30-09</i>
FY 2009-10 (14 units)	<i>04-30-11</i>	<i>04-30-09</i>
<i>FY 2010-11 (15 units)</i>	<i>04-30-11</i>	

Failure to obtain building permits by the dates listed above shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

~~An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.~~

~~If a portion of the project has been completed (physical commencement on at least 9 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.~~

EXHIBIT "B"

**MC-04-21: Barrett-Syncon Homes
FY 2007-08, 13 allocations/FY 2008-09, 5 allocations/
FY 2009-2010, 14 allocations/FY 2010-2011, 15 allocations.**

Commence Construction:

FY 2007-08 (13 units)	12-30-10	06-30-09
FY 2008-09 (5 units)	06-30-11	06-30-10
FY 2009-10 (14 units)	06-30-11	06-30-10
<i>FY 2010-11 (15 units)</i>	<i>06-30-11</i>	

~~Failure to obtain building permits and commence construction by the dates listed above, shall result in the loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.~~

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 9 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

RESOLUTION NO. 09

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING A 12 MONTH EXTENSION OF THE FY 2008-09 AND FY 2009-10 ALLOCATIONS AND APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MC-05-09: E. CENTRAL-UHC TO EXTEND THE DATE TO OBTAIN BUILDING PERMITS BY 12 MONTHS. (APN 726-16-028)

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 49 building allotments for Application MC-05-09: E. Central -UHC; and

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System (RDCS), Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government Code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, On March 26, 2008, the City Council adopted Ordinance Number 1872 which set a development schedule for the 49 building allocations awarded to MC-05-09: E. Central -UHC; and

WHEREAS, under Section 18.78.125.G of the Municipal Code, the City Council may grant an Exception to Loss of Building Allotment (ELBA) if it finds that the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140, or extended delays in environmental review, permit delays not the result of developer inaction, or allocation appeals processing; and

WHEREAS, the applicant has been diligent in pursuing all necessary approvals but the housing market has significantly slowed and application dates for Federal Tax Credit programs delayed, thus additional time is needed to allow new construction to proceed; and

WHEREAS, the City Council has previously recognized downturns in the housing market as circumstance for exceptions to the loss of building allocations.

WHEREAS, on October 25, 2006, the Planning Commission adopted Policy PCP-06-01, establishing a procedure to approve development schedules and extension of time requests by Planning Commission Resolution for projects receiving allotments through the RDCS; and

WHEREAS, the applicant is currently requesting to amend the development schedule as shown in the attached Exhibit A due to the downturn in the housing market; and

WHEREAS, the applicant has made significant progress in the project, including all planning approvals, final map submittal and completing the plan check process for all 49 allotments; and

WHEREAS, the amended development schedule for application MC-05-09: E. Central - UHC was considered by the Planning Commission at their regular meeting of May 12, 2009, at which time the Planning Commission approved the amended development schedule.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1.ADOPTION OF AMENDED DEVELOPMENT SCHEDULE. The Planning Commission hereby adopts the Amended Development Schedule for MC-05-09: E. Central -UHC attached to this Resolution as Exhibit A.

SECTION 2. The Planning Commission recommends approval of the development agreement amendment as shown in the attached Exhibit B. The proposed amendment is to allow for a 12 month extension of the FY 2008-09 and FY 2009-10 allocations.

PASSED AND ADOPTED THIS 12TH DAY OF MAY 2009, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

, Deputy City Clerk

, CHAIR

EXHIBIT "A"

**DEVELOPMENT SCHEDULE
MC-05-09: E. CENTRAL-UHC
FY 2008-09 (12 units) & FY 2009-2010 (37 units)**

- | | |
|--|--|
| I. ZONING APPLICATIONS
Applications Filed: | November 27, 2007 |
| II. SITE REVIEW APPLICATION
Application Filed: | September 13, 2007 |
| III. FINAL MAP SUBMITTAL
Map, Improvements Agreement and Bonds:
FY 2008-09 (12 units)
FY 2009-10 (37units) |
September 30, 2008
September 30, 2009 |
| IV. BUILDING PERMIT SUBMITTAL
Submit plans to Building Division for plan check:
FY 2008-09 (12 units)
FY 2009-10 (37units) |
January 5, 2009
January 5, 2010 |
| V. BUILDING PERMITS
Obtain Building Permits
FY 2008-09 (12 units)
FY 2009-10 (37units) |

<i>April 30, 2010 April 1, 2009</i>
<i>April 30, 2011 April 1, 2010</i> |

Failure to obtain building permits by the dates listed above and commence construction by the dates listed in the Development Agreement (Application No. DA07-03) shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 25 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

EXHIBIT "B"

**DEVELOPMENT SCHEDULE MC 05-09: E. Central-UHC
FY 2008-09 (12 units) & FY 2009-2010 (37 units)**

I.

Commence Construction:

FY 2008-09 (12 units)

June 30, 2010 ~~June 30, 2009~~

FY 2009-10 (37 units)

June 30, 2011 ~~June 30, 2010~~

~~Failure to obtain building permits by the dates listed above and commence construction by the dates listed in the Development Agreement (Application No. DA07-03) shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.~~

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 25 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

RESOLUTION NO. 09

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF MORGAN HILL RECOMMENDING
A 12 MONTH EXTENSION OF THE FY 2007-08, FY
2008-09 AND FY 2009-10 ALLOCATIONS AND
APPROVING AN AMENDMENT TO THE
DEVELOPMENT SCHEDULE FOR APPLICATION
MC-05-06: E. MAIN-AHLIN TO EXTEND THE DATES
WITHIN THE PROJECT DEVELOPMENT SCHEDULE
BY 12 MONTHS. (APN(S) 726-15-001 AND -073)**

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 99 building allotments for Application MC-05-06: E. Main-Ahlin; and

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System (RDCS), Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government Code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, on July 18, 2007, the City Council approved the development agreement for application MC-05-06: E. Main-Ahlin; and schedule for the 99 building allocations awarded to MC-05-06: E. Main-Ahlin; and

WHEREAS, under Section 18.78.125.G of the Municipal Code, the City Council may grant an Exception to Loss of Building Allotment (ELBA) if it finds that the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140, or extended delays in environmental review, permit delays not the result of developer inaction, or allocation appeals processing; and

WHEREAS, the applicant has been diligent in pursuing all necessary approvals but the housing market has significantly slowed, thus additional time is needed before lenders will allow new construction to proceed; and

WHEREAS, the applicant has made significant progress with the project, including all planning approvals, final map recordation for 48 lots and the plan check process for 14 allotments; and

WHEREAS, the City Council has previously recognized downturns in the housing market as circumstance for exceptions to the loss of building allocations.

WHEREAS, on October 25, 2006, the Planning Commission adopted Policy PCP-06-01, establishing a procedure to approve development schedules and extension of time requests by Planning Commission Resolution for projects receiving allotments through the RDCS; and

WHEREAS, the applicant is currently requesting to amend the development schedule as shown in the attached Exhibit A due to the downturn in the housing market; and

WHEREAS, the amended development schedule for application MC-05-06: E. Main-Ahlin was considered by the Planning Commission at their regular meeting of May 12, 2009, at which time the Planning Commission approved the amended development schedule.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. ADOPTION OF AMENDED DEVELOPMENT SCHEDULE. The Planning Commission hereby adopts the Amended Development Schedule for MC-05-06: E. Main-Ahlin attached to this Resolution as Exhibit A.

SECTION 2. The Planning Commission recommends approval of the development agreement amendment as shown in the attached Exhibit B. The proposed amendment is to allow for a 12 month extension of the FY 2008-09 and FY 2009-10 allocations.

PASSED AND ADOPTED THIS 12TH DAY OF MAY 2009, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

, Deputy City Clerk

, CHAIR

EXHIBIT "A"

DEVELOPMENT SCHEDULE
MC-05-06: E. MAIN - AHLIN
FY 2007-08 (50 units), FY 2008-09 (43 units), FY 2009-10 (6 units)

- I. SUBDIVISION AND ZONING APPLICATIONS**
Applications Filed: January 16, 2007
- II. SITE REVIEW APPLICATION**
Application Filed: May 18, 2007
- III. FINAL MAP SUBMITTAL**
Map, Improvements Agreement and Bonds:
FY 2007-08 (48 units) Sept. 30, 2007
FY 2007-08 (2 units) September 30, 2010 ~~Sept. 30, 2007~~
FY 2008-09 (43 units) *January 30, 2011* ~~January 30, 2010~~
FY 2008-09 (6 units) *January 30, 2011* ~~January 30, 2010~~
- IV. BUILDING PERMIT SUBMITTAL**
Submit plans to Building Division for plan check:
FY 2007-08 (14 units) February 28, 2009
FY 2007-08 (36 units) February 28, 2010
FY 2008-09 (43 units) *February 28, 2011* ~~February 28, 2010~~
FY 2008-09 (6 units) *February 28, 2011* ~~February 28, 2010~~
- V. BUILDING PERMITS**
Obtain Building Permits
FY 2007-08 (14 units) April 30, 2010 ~~April 30, 2009~~
FY 2007-08 (36 units) April 30, 2010
FY 2008-09 (43 units) *April 30, 2011* ~~April 30, 2010~~
FY 2008-09 (6 units) *April 30, 2011* ~~April 30, 2010~~

Failure to obtain building permits by the dates listed above and commence construction by the dates listed in the Development Agreement (Application No. DA06-05) shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 50 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

EXHIBIT "B"

**DEVELOPMENT SCHEDULE MC-05-06: E. MAIN - AHLIN
FY 2007-08 (50 units), FY 2008-09 (43 units), FY 2009-10 (6 units)**

I. COMMENCE CONSTRUCTION:

FY 2007-08 (50 units)	<i>June 30, 2010</i> June 30, 2009
FY 2008-09 (43 units)	<i>June 30, 2011</i> June 30, 2010
FY 2009-10 (6 units)	<i>June 30, 2011</i> June 30, 2010

Failure to commence construction by the dates listed above shall result in the loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 50 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

The development schedule for construction of the 99 units may be accelerated in accordance with the provisions of Measure F; approved by the voters in November 2006.

RESOLUTION NO. 09

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL RECOMMENDING AN 12-MONTH EXTENSION OF TIME TO COMMENCE CONSTRUCTION ON FOUR, FY 2006-07 ALLOTMENTS AND APPROVING AN AMENDMENT TO THE DEVELOPMENT SCHEDULE FOR APPLICATION MC-05-03: MONTEREY-GUNTER TO EXTEND THE DATES WITHIN THE PROJECT DEVELOPMENT SCHEDULE BY 12-15 MONTHS. (APN 726-23-008)

WHEREAS, the Planning Commission, pursuant to Chapter 18.78.125 of the Morgan Hill Municipal Code, awarded 15 building allotments for application MC-05-03: Monterey – Gunter (four allotments for FY 2006-07 and 11 allotments for FY 2009-10); and

WHEREAS, the City Council of the City of Morgan Hill has adopted Resolution No. 4028, establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System (RDCS), Title 18, Chapter 18.78 of the Morgan Hill Municipal Code; and

WHEREAS, Sections 65864 through 65869.5 of the California Government Code authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property; and

WHEREAS, on January 24, 2007, the City Council adopted Ordinance No. 1817, N.S. which approved a development agreement for application MC-05-03: Monterey-Gunter; and

WHEREAS, under Section 18.78.125.G of the Municipal Code, the City Council may grant an Exception to Loss of Building Allotment (ELBA) if it finds that the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140, or extended delays in environmental review, permit delays not the result of developer inaction, or allocation appeals processing; and

WHEREAS, the applicant is currently requesting to amend the development agreement to allow for an additional ELBA of up to 18 months due to the downturn in the housing market; and

WHEREAS, the City Council has in the past approved ELBA requests due to a downturn in the housing market which is an external factor not the result of developer inaction; and

WHEREAS, on October 25, 2006, the Planning Commission adopted Policy PCP-06-01, establishing a procedure to approve development schedules and extension of time requests by Planning Commission Resolution for projects receiving allotments through the RDCS; and

WHEREAS, the applicant is currently requesting to amend the development schedule as shown in the attached Exhibit A due to the downturn in the housing market; and

WHEREAS, the amended development schedule for application MC-05-03: Monterey-Gunter was considered by the Planning Commission at their regular meeting of May 12, 2009, at which time the Planning Commission approved the amended development schedule.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

SECTION 1. ADOPTION OF AMENDED DEVELOPMENT SCHEDULE. The Planning Commission hereby adopts the Amended Development Schedule for MC-05-03: Monterey-Gunter attached to this Resolution as Exhibit A.

SECTION 2. The Planning Commission recommends approval of the development agreement amendment as shown in the attached Exhibit B. The proposed amendment is to allow for a 12 month extension of the FY 2008-09 and FY 2009-10 allocations.

PASSED AND ADOPTED THIS 12TH DAY OF MAY 2009, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

, Deputy City Clerk

APPROVED:

, CHAIR

EXHIBIT "A"

DEVELOPMENT SCHEDULE MC-05-03: MONTEREY - GUNTER
FY 2006-07 (4 allocations)/FY 2009-10 (11 allocations)

I. SUBDIVISION AND ZONING APPLICATIONS

Applications Filed:

FY 2006-07 (4 units)		07-31-08
FY 2009-10 (11 units)	07-31-09	07-31-08

II. SITE REVIEW APPLICATION

Application Filed:

FY 2006-07 (4 units)		09-30-06
FY 2009-10 (11 units)	04-31-10	03-30-09

III. FINAL MAP SUBMITTAL

Map, Improvements Agreement and Bonds:

FY 2006-07 (4 units)	04-31-10	02-27-09
FY 2009-10 (11 units)	10-30-10	02-26-10

IV. BUILDING PERMIT SUBMITTAL (*Building Shell and Residential Tenant Improvements*)

Submit plans to Building Division for plan check:

FY 2006-07 (4 units)	06-30-10	03-30-09
FY 2009-10 (11 units)	01-30-11	05-15-10

V. BUILDING PERMITS (*Building Shell and Residential Tenant Improvements*)

Obtain Building Permits:

FY 2006-07 (4 units)	10-30-10	10-30-09
FY 2009-10 (11 units)	04-30-11	09-30-10

Failure to obtain building permits by the dates listed above shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

EXHIBIT B

DEVELOPMENT SCHEDULE MC-05-03: MONTEREY - GUNTER
FY 2006-07 (4 allocations)/FY 2009-10 (11 allocations)

I. COMMENCE CONSTRUCTION (*Building Shell and Residential Tenant Improvements*):

FY 2006-07 (4 units)	<i>09-30-10</i>	12-21-09
FY 2009-10 (11 units)		06-30-11

Failure to commence construction by the dates listed above shall result in the loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 8 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

The development schedule for construction of the 15 units may be accelerated in accordance with the provisions of Measure F, approved by the voters in November 2006.



PARK PLACE
Land Advisors
DEVELOPMENT SOLUTIONS

DAA-0519B;
ELBA-09-04: BARRETT-SYNCON/B OF A

DEVELOPMENT
SERVICES

APR 09 2009

CITY OF MORGAN HILL

April 9, 2009

Terry Linder
Senior Planner
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037-4128

Re: Letter of Request for Extension of Time, Development Schedule MC-04-21: Barrett Syncon Homes FY 2007-08, 13 Allocations/FY 2008-09, 5 allocations/FY2009-2010, 14 allocations

Terry,

Due to the current economic situation in the housing industry as well as the recent foreclosure by Bank of America on the above referenced project, we are hereby requesting an a 12-month extension of time to commence construction for the 6 remaining building permits awarded for FY 2007-08. We are also requesting a 12-month extension of time to commence construction for the 5 units awarded for FY 2008-2009, and the 14 units awarded for FY 2009-2010. The original expiration dates are listed below, as well as their requested extension dates:

Commence Construction	Current Date of Expiration	Requested Date of Expiration	Notes
FY 2007-08 (13 units)	6/30/2009	6/30/2010	Only 6 units remaining
FY 2008-09 (5 units)	6/30/2010	6/30/2011	
FY 2009-10 (14 units)	6/30/2010	6/30/2011	

Please do not hesitate to contact me if there are any questions. Thank you!

Sincerely,

Alex Wong
Project Manager
Park Place Land Advisors Development Solution
949.852.8288 x 29
awong@pppdevelopmentsolutions.com



DEVELOPMENT
SERVICES

APR 20 2009

CITY OF MORGAN HILL

April 17, 2009

Ms. Terry Linder
Senior Planner
City of Morgan Hill
17575 Peak Avenue
Morgan Hill, CA 95037-4128

Re: Horizons at Morgan Hill-Notice of Development Processing
Default Application MC-05-09

Dear Terry:

Enclosed are the applications to extend the 12 building allotments for FY 2008-09 for the Horizons at Morgan Hill Senior affordable development. Since past applications have had UHC Morgan Hill filled in as the owner, one has UHC Morgan Hill LP as the applicant and owner, and is executed. The other has UHC Morgan Hill LP as the applicant with the Morgan Hill Redevelopment Agency as the Owner and in need of the City's signature. I tried calling to determine which one to send and everyone is on vacation. So I thought best to send both.

Also enclosed are the stamped and addressed envelopes to the property owners in a 300 foot radius for the notification.

The plans are nearly approved for permits as we wait to submit for the June 9th 9% tax credit funding round.

Thank you ,


Mark Irving

C. Joyce Maskell, City of Morgan Hill Redevelopment Agency.
Erwin Ordonez, City of Morgan Hill Redevelopment Agency

Terry Linder

From: Scott Murray [smurray@interorealestate.com]
Sent: Wednesday, April 22, 2009 1:52 PM
To: Terry Linder
Subject: RE: Huntington Square

Terry, Sorry forgot to due the attachment of the applications. I received today the mailing list, will drop off tomorrow. Also; will have the app for Rose Lane. What will the total fees be for both apps?

Thanks Scott

From: Scott Murray
Sent: Wednesday, April 22, 2009 12:39 PM
To: 'Terry.Linder@morganhill.ca.gov'
Subject: Huntington Square

Hello Terry

I'm submitting an application to amend the Dev. Agreement for Huntington Sq. requesting the following changes to dates for FY 2007-08, FY 2008-09 and FY 2009-10.

Development Agreement		
Commence Construction:		
FY 2007-08 (14 units)	06-30-09	06-30-08
FY 2007-08 (36 units)	06-30-10	
FY 2008-09 (43 units)		06-30-11
FY 2009-10 (6 units)		06-30-11
11		

Development Schedule					
I. FINAL MAP SUBMITTAL		IV. BUILDING PERMITS SUBMITTAL		V. BUILDING PERMITS	
Map, Improvements Agreement and Conditions:		Submit plans to Building Division for plan check:		Obtain Building Permits	
FY 2007-08 (48 units)	09-30-07	FY 2007-08 (14 units)	02-30-09	FY 2007-08 (14 units)	04-30-09
FY 2007-08 (2 units)	09-30-10	FY 2007-10 (36 units)	02-30-10	FY 2007-08 (36 units)	04-30-10
FY 2008-09 (43 units)	01-01-11 01-01-09	FY 2008-09 (43 units)	02-30-11 02-30-09	FY 2008-09 (43 units)	04-30-11 04-30-09
FY 2009-10 (6 units)	01-01-11 01-01-10	FY 2009-10 (6 units)	02-30-11 02-30-10	FY 2009-10 (6 units)	04-30-11 04-30-10

Please look over the suggested dates and let me know what you think. Thanks for all your help Terry; I really do appreciate it very much.

Call me if you have any questions, 406-6000.

Thanks.
 Scott Murray

4/22/2009

GUNTER BUILDING, LLC

A California Limited Liability Co.
17600 Monterey Road, Suite C
Morgan Hill, CA 95037

March 30, 2009

DEVELOPMENT
SERVICES

MAR 30 2009

CITY OF MORGAN HILL

City of Morgan Hill, Community Development Department
Attn: Rebecca Tolentino
17555 Peak Ave.
Morgan Hill, CA 95037

Re: Monterey-Gunter (MC-05-03)
Development Agreement and Development Schedule Extension Request
DAA-06-06

Dear Rebecca,

As you know, our tentative map has been approved for Phase 1. Due to the economic conditions we are all facing, and the absence of available financing, we have been unable secure construction financing, and therefore, we would like to request a one year extension of time to meet our Development Agreement and Development Schedule deadlines. We are currently working with the City in an attempt to think outside the box regarding the development of our property which would allow our project to proceed more quickly than the present economy would otherwise allow. I have enclosed with this letter and application a proposed revision to the Development Agreement and Development Schedule deadlines. Thank you for your understanding and help.

Very truly yours,
Dictated but not read
To avoid delay
Craig C. van Keulen, Managing Member
Gunter Building, LLC

tls: CVK
enclosures

MAR 30 2009

CITY OF MORGAN HILL

EXHIBIT "A"

DEVELOPMENT SCHEDULE MC-05-03: MONTEREY - GUNTER
FY 2006-07 (4 allocations)/FY 2009-10 (11 allocations)

	Currently Approved Dates	Requested Dates
I. SUBDIVISION AND ZONING APPLICATIONS		
Applications Filed:	06-30-2007	July 31, 2009 July 31, 2008
II. SITE REVIEW APPLICATION		
Application Filed:		
FY 2006-07 (4 units)	09-30-2006	APRIL 30, 2010
FY 2009-10 (11 units)	09-30-2008	March 30, 2009
III. FINAL MAP SUBMITTAL		
Map, Improvements Agreement and Bonds:		
FY 2006-07 (4 units)	01-31-2008	APRIL 31, 2010
FY 2009-10 (11 units)	01-31-2009	Feb. 27, 2009 Feb. 26, 2010 MAY 31, 2011
IV. BUILDING PERMIT SUBMITTAL (Building Shell and Residential Tenant Improvements)		
Submit plans to Building Division for plan check:		
FY 2006-07 (4 units)	08-01-2006	JUNE 30, 2010
FY 2009-10 (11 units)	05-15-2009	March 30, 2009 May 15, 2010 AUG. 15, 2011
V. BUILDING PERMITS (Building Shell and Residential Tenant Improvements)		
Obtain Building Permits:		
FY 2006-07 (4 units)	09-30-2007	OCT. 30, 2010
FY 2009-10 (11 units)	09-30-2009	Oct. 30, 2009 Sept. 30, 2010 DEC. 30, 2011

Failure to obtain building permits by the dates listed above shall result in the loss of building allocations. Submitting a Final Map Application or a Building Permit one (1) or more months beyond the filing dates listed above shall result in the applicant being charged a processing fee equal to double the building permit plan check fee and/or double the map checking fee to recoup the additional costs incurred in processing the applications within the required time limits. Additionally, failure to meet the Final Map Submittal and Building Permit Submittal deadlines listed above may result in loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

EXHIBIT B

**DEVELOPMENT SCHEDULE MC-05-03: MONTEREY - GUNTER
FY 2006-07 (4 allocations)/FY 2009-10 (11 allocations)**

I. COMMENCE CONSTRUCTION (*Building Shell and Residential Tenant Improvements*):

FY 2006-07 (4 units)	06-30-2008	Sept. 21, 2009 DEC. 31, 2010
FY 2009-10 (11 units)	06-30-2010	June 30, 2011 DEC. 30, 2012

Failure to commence construction by the dates listed above shall result in the loss of building allocations. In such event, the property owner must re-apply under the development allotment process outlined in Section 18.78.090 of the Municipal Code if development is still desired.

An exception to the loss of allocation may be granted by the City Council if the cause for the lack of commencement was the City's failure to grant a building permit for the project due to an emergency situation as defined in Section 18.78.140 or extended delays in environmental reviews, permit delays not the result of developer inactions, or allocation appeals processing.

If a portion of the project has been completed (physical commencement on at least 8 dwelling units and lot improvements have been installed according to the plans and specifications), the property owner may submit an application for reallocation of allotments. Distribution of new building allocations for partially completed project shall be subject to the policies and procedures in place at the time the reallocation is requested.

The development schedule for construction of the 15 units may be accelerated in accordance with the provisions of Measure F, approved by the voters in November 2006.



Memorandum

To: PLANNING COMMISSION

Date: MAY 12, 2009

From: COMMUNITY DEVELOPMENT DEPARTMENT

Subject: STATUS OF FISCAL YEAR 2006/07 AND YEAR 2008 GENERAL PLAN IMPLEMENTATION

REQUEST: Review Status of General Plan Implementation.

RECOMMENDATION: Report to the City Council that satisfactory progress is being made toward General Plan Implementation.

BACKGROUND:

Action 1.3 of the City's General Plan in the Community Development Element requires the City to review progress in meeting General Plan goals and policies for each Fiscal Year. In addition, California Government Code section 65400 requires each planning agency to provide an annual report to the City Council and to the State of California Office of Planning and Research and the Department of Housing and Community Development (HCD) regarding the progress of the status of the plan and progress in its implementation. In 2002 the Housing Element was updated and submitted to the State of California for review. The State provided recommended changes in order to bring the Element into compliance. In 2004, the Residential Development Control System was amended and extended by the voters under Measure C to enable the City to meet our regional housing needs allotment. In 2006, State HCD certified the City's current Housing Element. In 2008, the City began the next update of the Housing Element to address our regional housing needs allotment for the period from 2007 to 2014. Review of the draft Element by the State and adoption by the City Council is anticipated in the fall of 2009.

GENERAL PLAN IMPLEMENTATION

Community Development Element

The Community Development element of the General Plan includes the required land use element. The Community Development element discusses land use, community character and public facilities. Included are goals and policies intended to ensure that Morgan Hill retains its rural atmosphere while accommodating sensible, orderly growth that will promote the local economy and fit within the City's ability to provide adequate public services.

Land Use

The land use element contains policies regarding density, general distribution of land uses, including housing, business, industry, open space and public facilities within the City's Sphere of Influence. A land use map is included as part of the land use element.

The General Plan update in 2001 included a study of the available land to meet the future demand for commercial, industrial, residential, open space and public facilities within Morgan Hill's sphere of influence. The study concluded there is enough land available through 2041 to meet the need of Morgan Hill.

Land Use Amendments

During the 2006-2007 and calendar year 2008, the City approved the five General Plan Amendments listed below:

1. General Plan Amendment 05-05-City of Morgan Hill, adopted April 19, 2006. This action amended the General Plan text and Land Use Diagram to include an Urban Limit Line planning boundary around the City.
2. General Plan Amendment 05-06-Santa Teresa-Blackrock, adopted April 19, 2006. This action occurred at the southwest corner of Santa Teresa Boulevard and Watsonville Road amending 18 acres from Rural County to Residential Estate 0-1 dwellings per acre.
3. General Plan Amendment 06-01-Laurel-City of Morgan Hill, adopted June 3, 2006. This action amended the General Plan Land Use Designation from Multi-family Low 5-14 dwellings per acres to Commercial on 2.66 acres adjacent to and northerly of the Walnut Grove/Laurel Road intersection.
4. General Plan Amendment 07-03-City of Morgan Hill adopted February 21, 2007. This action amended the Community Development Section of the General Plan exempting 100 residential building allotments within the Downtown from the City's Residential Development Control System for projects containing 25 units or less and allowing earlier starts and completions for projects awarded building allocations in March 2006.
5. General Plan Amendment 08-10-Barrett – Colson & Colson adopted September 17, 2008. This action occurred along the northwest corner of Barrett Avenue and Butterfield Boulevard amending 5.3 acres from Industrial to Multi-family Medium 14-21 dwellings per acre.

Land Development

In FY 2006-2007 and calendar year 2008, land development in the past 30 months absorbed approximately 72 acres of vacant land.

Commercial

In FY 2006-2007 and calendar year 2008, approximately 41 vacant commercial lands developed. The General Plan Background Report estimated that between 2.3 - 4.4 acres per year would be needed between the years 2000-2020. There are currently approximately 202 acres of vacant commercial land, which are reflected in the land use diagram.

Industrial

In FY 2006-2007 and calendar year 2008, approximately 2.51 acres of vacant industrial land developed. This development occurred on Church Street near Mast Avenue and on Joleen Way. The General Plan Background Report estimated that between 7.8-17.8 acres of industrial land per year would be needed between the years 2000-2020. Industrial development has slowed significantly as compared to the late 1990's and 2000. There are currently approximately 645 acres of vacant industrial land in the land use diagram.

Public Facilities

In FY 2006-2007 and calendar year 2008, approximately 5 acres of vacant land zoned for public facilities were developed for the new Morgan Hill Library which opened in July 2007 and the Courthouse Demonstration Garden completed in 2008.

Residential

According to the General Plan, at current construction rates, available residential land in the City and in the Urban Growth Boundary will take more than 15 years to develop.

During FY 2006-2007 and calendar year 2008, approximately 25 acres of residential land developed. This includes land with completed units and land with units under construction. Building permits for 288 dwelling units were issued during 2006-2007 and calendar year 2008.

In the November 2006 General Election the voters approved Measure F amending the Community Development Section of the General Plan exempting 100 residential building allotments within the Downtown from the City's Residential Development Control System (RDCS) for projects containing 25 units or less and allowing earlier starts and completions for projects awarded building allocations in March 2006. On May 19, 2009, a Special Statewide Election is scheduled in which the voters will consider a local Measure to further amend the General Plan and Municipal Code to exempt 500 dwelling units in a 20-block area of the Downtown from the RDCS. This exemption is needed in order to increase the feasibility of achieving a vision for a redeveloped, vibrant downtown with a healthy mix of commercial, office and residential uses.

In FY 06/07 a Downtown Measure F and Micro Project RDCS competition was held in which allocations for 26 units were awarded. Another 221 building allocations were awarded in FY 2008-09.

Goal and Action Item Update

The following is a brief description of individual goals and action items listed in the General Plan, which

experienced notable activity during 2006-2007 and Calendar Year 2008:

Goal 8 (Page 31) calls for distinct well-designed residential neighborhoods. The Community Development Director and Senior Planner prepared an architectural handbook to ensure compliance with this goal. The architectural handbook and update of the City's Design Review Ordinance under Chapter 18.74 of the Municipal Code were completed in 2008.

Goal 9 (Page 32) calls for sufficient and concentrated commercial use. The City Council approved a commercial development known as the DiNapoli or Cochrane Commons Project located on east side of 101 and Cochrane Road. This project was approved to accommodate a grocery store, but the project may include only additional retail uses instead. A grocery store could be located in the Cochrane Plaza shopping center on the west side of 101, but required voter approval remove a restriction against grocery stores and supermarkets. The grocery store restriction was removed under a ballot measure approved by the voters in June 2006.

Goal 11 (Page 35) calls for adequate land for industrial development. The Planning Division completed an industrial land market analysis in July 2006 that determined the City had a more than adequate supply of undeveloped industrial land and had an inventory of approximately 1.1 million square feet of vacant office and industrial building space.

Goal 12 (Page 36) calls for a visually attractive urban environment. The City Council expanded the scope of the Library Commission to include art and culture. The Library, Culture and Arts Commission are working to develop policies and guidelines regarding public art.

Goal 13 (Page 38) calls for a vibrant and identifiable downtown. The Downtown Plan is currently being implemented and the City's Business Assistance and Housing Services Department administers the façade improvement program for the downtown area. As a further implementation of the 2003 Downtown Plan the new Downtown Specific Plan will be adopted that will allow higher residential densities, expanded mixed use development and new design guidelines for Downtown. The Downtown Specific Plan is scheduled for adoption in 2009.

Goal 16 (Page 41) calls for an urban level of services and facilities and requires that all City projects go through the same development review projects as private projects. Two City projects that have complied with this requirement are the new Morgan Hill Library and the Courthouse Demonstration Garden. The new Library was completed in July 2007 and the Courthouse Demonstration Garden was completed in 2008.

Goal 18 (Page 43) calls for useful, accessible and high-quality park, recreation and trail facilities and programs. Action Item 18.1 calls for acquisition of appropriate park land. Currently, the City plans to purchase approximately 18 acres on El Toro Mountain as open space with plans to provide a hiking trail to the summit of El Toro.

Action Item 18.5 calls for working in partnership with Santa Clara Valley Water District to establish easements and develop trails along creeks and ways. In 2006 through 2008, the City completed two segments of the bicycle and pedestrian path adjacent to the West Little Llagas Creek beginning at West

Edmundson Avenue and extending north.

Action Item 18.6 calls for working in partnership with Santa Clara County Parks and Recreation Department to enhance appropriate community use of county and city parks. On March 20, 2007 the Santa Clara County Board of Supervisors approved the Integrated Master Plan for Coyote Creek Parkway County Park. City staff provided comment to County staff during the update progress.

Action Item 18.17 calls for consideration of restrooms at parks based on guidelines established in the Parks, Facilities and Recreation Programming Master Plan. New low maintenance restrooms were installed replacing the old ones at Galvan and Community Parks.

Action Item 18.22 calls for measurable maintenance standards for parks and recreation facilities to encourage a consistent and high level of maintenance. These standards were implemented in 2005.

Goal 19 Action Item 19.8 (Page 51) calls for coordinated urban and school development. The City has identified a new 2.4 acre park site located on Peet Road, adjacent to the residential development known as Alicante.

Economic Development Element

The Economic Development Element seeks to diversify the local economy with broad range of retail and service amenities, increase job opportunities for local residents, decrease the need to commute, and expand the City's job base.

Goal and Action Item Update

The following is a brief description of individual goals and action items listed in the General Plan, which experienced notable activity during 2006-2007 and calendar year 2008:

Goal 1 (Page 58) calls for a strong, stable and diverse economic base. The Business Assistance and Housing Services Department (BAHS) added a Senior Project Manager position to work primarily on business attraction and business retention programs. The City has increased marketing efforts to attract targeted industries and expanded its efforts to work with existing businesses. A small business ombudsman program has also been established.

Goal 2 (Page 58) Jobs/Housing Balance

General Plan policy 2d (page 58) states that the City should aim to reach equilibrium between the supply of jobs and employed residents in the City. The following table shows the job/housing balance from 2005-2030 according to the Association of Bay Area Governments (ABAG). ABAG projects that between 2005-2030 the job/housing balance will increase and projects the City will add more jobs than employed residents. Between 2005-2030, ABAG forecasts that the job/housing balance for the City will improve, and exceed equilibrium in 2020. ABAG projects that Morgan Hill will experience a 26% job rate growth in the first half of the forecast (2005-2015). This will be the second highest job rate growth in the County after Gilroy at 46%. See table top of next page:

Year	Jobs	Employed Residents	Job Deficit	Ratio
2005	14,520	16,620	-2,100	0.87
2010	16,490	18,870	-2,380	0.87
2015	19,170	20,160	-990	0.95
2020	21,760	21,490	270	1.01
2025	24,330	22,580	1,750	1.08
2030	27,570	23,140	4,430	1.19

Source: ABAG Projections 2005 for Sphere of Influence

Population Growth

The City population increased from 33,556 in 2000 to 39,814 in 2009 representing an increase of 18.64% over the last nine years, or an increase of 6,258 persons. Measure C caps the population at 48,000 people in the year 2020. Thus, the City could only add approximately 744 persons a year until January 1, 2020. Please see table below (includes population for all of calendar year 2020):

Growth Between 2006-2020 (Assumes Average of 744 Persons per Year)		
Year	Projected Population	Percentage Growth Over Prior Year
2006	37,175	2.07%
2007	38,360	3.18%
2008	39,051	1.80%
2009	39,814	1.95%
2010	40,181	0.92%
2011	42,462	5.67%
2012	43,368	2.13%
2013	44,430	2.44%
2014	45,493	2.39%
2015	45,935	0.97%
2016	46,077	0.31%
2017	46,808	1.58%
2018	47,539	1.56%
2019	48,270	1.53%
2020	49,000	1.51%

Source: State Department of Finance, City Planning Projections

Goal 2 (Page 60) calls for additional, adequate job opportunities for local residents. City staff is working to attract new companies that will provide employment for local residents and to retain those businesses that currently provide employment opportunities. New and expanding companies are encouraged to hire locally. BAHS staff also works with area educators and providers of workforce training to assure the City's labor force meets the growing demands of employers.

Goal 3 (Page 61) calls for a viable tourist industry. The City has again entered into an agreement with the Chamber of Commerce to promote Morgan Hill as a tourist destination. The Chamber, in partnership with the Gilroy Visitors Bureau, is a member of the South Santa Clara Valley Tourism Partnership.

Funding from the City is used toward memberships and affiliations with tourism organizations including the Central Coast Tourism Council, administrative expenditures, trade shows, advertising, printing, postage, familiarization tours, travel expenses, and promotion.

Circulation Element

The Circulation Element offers mechanisms for making Morgan Hill a safe and efficient place to travel. It contains goals, policies and actions aimed at making the existing road network more efficient and user-friendly, providing the necessary expansion of the City's road network, solving existing traffic and parking problems, and expanding transit and non-motorized travel opportunities.

In 2006-07 and 2008 almost all intersections in the City operated at Level of Service (LOS) "D" approaching unstable flow, tolerable delays, or better. In 2007, the City began an update of the City's Traffic Demand Model last updated in 1998. Based on the results of the modeling efforts, an updated of the Circulation Element was initiated in 2008 to review future road right-of-way requirements, establish a new tiered LOS policy and establish as a new goal a transportation system based on Smart Growth reflecting a balanced, multi-modal transportation system, especially in the Downtown, where pedestrian, bicycle and transit facilities are emphasized along with vehicular facilities. The Circulation Element Update is expected to be completed in 2009.

Goal and Action Item Update

The following is a brief description of individual goals and action items listed in the General Plan, which experienced notable activity during 2006-2007 and calendar year 2008:

Goal 1 (Page 69) calls for a balanced, safe and efficient circulation system for all segments of the community. Through both the City's Capital Improvement Program, (CIP) and directed development activity, several improvements have been accomplished, including the widening of Tennant Avenue, enhancing the intersection of Monterey Road and Main Avenue, reconstructing Depot Street, extending Central Avenue to Butterfield Blvd, widening Cochrane Road, completing the safety project at the Tilton Avenue/Monterey Road intersection, synchronizing the traffic signals along the Tennant Avenue and E. Dunne Avenue corridors, and repairing and overlaying various streets City-wide. The City's current approved CIP also contains significant future improvements to the circulation element, including the gap-filling extension of Santa Teresa Blvd. between Main Avenue and DeWitt, the widening of W. Dunne Avenue, the southern extension of Butterfield Blvd. from Tennant Avenue to Watsonville Road, the northern extension of Butterfield Blvd. from

Cochrane Road to Madrone Parkway, and the widening of the Tennant Avenue/Hwy 101 Interchange.

Goal 2 (Page 69) calls for coordinated transportation planning efforts with local, regional, State and Federal agencies. The City participated in the South County Circulation Study – a regional transportation study, sponsored by VTA, to identify future transportation and associated funding needs in the south county area. In addition, the design of the Tennant Avenue/Hwy 101 project required close coordination with Caltrans.

Goal 3 (Page 70) calls for a coordinated, continuous network of streets and roads. The City has been consistent in requiring developers to construct and improve the roadway system (where nexus is established) in accordance with the Circulation Element and City road design standards. The City also collects traffic impact fees according to the City Code to ensure the full cost recovery of the transportation infrastructure and that the street system is constructed in a manner that keeps pace with the planned growth of the community.

Goal 3 Action 3.5 (Page 73) calls for maintenance, regular review and update as necessary, the system of fees and assessments to cover the cumulative impacts of new development and land acquisition and construction cost changes on the overall road system. During the 2008/09 fiscal year, the City undertook a study to review all impact fees, including the traffic impact fee, to determine if the methodology and revenues generated are meeting the general plan goals. The study is expected to be completed and recommendations adopted before the end of the 2009 calendar year.

Goal 6 (page 76) calls for a safe and efficient transit system that reduces congestion by providing viable non-automobile modes of transportation. There are four VTA bus routes, two express buses and a rail line operated by Caltrain that serve the City. Caltrain operates from Gilroy to the south, to San Jose, Silicon Valley, and San Francisco to the north. Caltrain currently operates 3 weekday morning northbound trains and three evening southbound trains. This is a reduction from 4 trains in both directions in 2002. Caltrain is currently working on a \$30 million double tracking project from South San Jose to Gilroy, which will allow train service to expand from 6 trains a day to 12. Anticipated completion of this project is the fall of 2010. The Valley Transportation Authority, which operates bus lines in the County, is working with the City of Morgan Hill to consider implementation of a community bus service. The community bus operates smaller shuttle style buses, which can provide greater flexibility and convenient and frequent access to local destinations.

Goal 7 (Page 77) calls for a usable and comprehensive bikeway system that safely connects neighborhoods with workplaces and community destinations. The City updated the Bikeways Master Plan and map during the 2008/09 fiscal year. The City has completed phases 2 and 3 of W. Little Llagas trail system, adding nearly two miles of new bike and pedestrian pathways to the City's inventory. All new street construction, whether built with development activity or the City's CIP program now incorporates bike lanes and bike sensitive signal loops according to the Bikeways Master Plan. It is planned to use Transportation Development Act funds on bicycle parking facilities at various locations throughout the City in the 2009/10 fiscal year.

Goal 8 (Page 81) calls for expanded pedestrian opportunities. The City received a large grant towards the reconstruction of Third Street between Monterey Road and the City's train station on Depot Street. The project has been designed to be a pedestrian friendly travel way with wide sidewalks and traffic calming measures. Construction will be completed in the 2009/10 fiscal year. Phases 2 and 3 of the W. Little Llagas trail system have been completed. The fourth phase is planned in the current CIP. Also recently completed are the pedestrian crossing improvements at Central Avenue and Monterey Road, adjacent to Britton Middle School. City staff is currently working with the Morgan Hill Unified School District to create safe routes to schools maps.

Open Space and Conservation Element

The Open Space/Conservation Element sets goals and policies that protect open space areas for natural resources, outdoor recreation, public health and safety, and agricultural activities. In addition, it also addresses the conservation and use of natural and cultural resources, including wetlands, forests, rivers, archeological remnants and historic structures.

Currently, there are approximately 1,367 acres of open space within the city limits. The General Plan states that land designated as open space in 1990, shall remain as open space through 2020. The number of open space acres currently owned by the city is 345. The City has an agreement to purchase another 18 acres of open space on El Toro Mountain. There is approximately 167 acres designated as City parks/developed park land. It is anticipated this will remain the same through 2010 however, the City Council established as a high priority to begin acquisition and land banking for future parks. The General Plan calls for a standard of 5 acres of parkland per thousand in population. With the current population of 39,814, there are approximately 4.2 acres per thousand.

Goal and Action Item Update

The following is a brief description of individual goals and action items listed in the General Plan, which experienced notable activity during 2006-2007 and 2008 calendar year:

Goal 1 (Page 83) calls for preservation of open space areas and natural features. An Urban Limit Line study was completed in 2004 to establish an Urban Limit Line (ULL). The purpose of an Urban Limit Line study is to encourage more efficient growth patterns, minimize public costs and protect environmental resources. As a result of this study; the ULL was established and adopted in April 2006 except for area known as the Southeast Quadrant (SEQ) - 1,250 acres of farmland adjacent to San Martin.

Goal 1 - Action 1.4 (Page 84) calls for pursuit of further coordinated action with Gilroy and Santa Clara County. The Coyote Lake-Harvey Bear Ranch County Park opened in 2005. This 4,595-acre park is part of the Santa Clara County Parks System. The northern portion of this park is located within the City's Sphere of Influence.

Action 1.5 (Page 84) calls for continuation of City programs to implement portions of trail systems and streamside park chains within their boundaries. In July 2005 the City Council adopted a policy for land use near streams and waterways, including stream/habitat protection measures. The policy states new development adjacent to streams and waterways shall be designed to preserve and integrate the waterways and associated habitats. In August 2007, the City Council adopted regulations for land uses near streams. The regulations were developed through a collaborative effort involving other Santa Clara County cities, the County and the Santa Clara Valley Water District.

Goal 2 (Page 85) calls for working with the County and San Jose to develop a plan for a greenbelt along the expected edge of the urbanized area. The City adopted the Urban Limit Line/Greenbelt study in April 2006, which represents the ultimate limits of City growth. The purpose of an Urban Limit Line/Green Belt Study is to encourage more efficient growth patterns, minimize public costs and protect environmental resources.

Goal 3 (Page 86) calls for viable agricultural industry. The City's Right to Farm Ordinance through which buyers of real estate within the City limits must be informed of the accepted customs and practices or agricultural/farming operations and the effects this may have upon nearby residences. The City is currently formulating agricultural mitigation policies as part of the SEQ study.

Goal 6 (Page 90) calls for protection of native plants and animals. Action 6.1 calls for development of design programs for the preservation and reclamation of degraded riparian areas. Santa Clara County's Coyote Creek Master Plan addresses repair of the riverbed formerly used a quarry located north of Ogier Road and south of Riverside Drive.

Action 6.4 (Page 90) calls for use of a land modification matrix to evaluate all land modification and environmental impacts on wildlife. This is achieved as part of an on-going evaluation of the environmental impact on wildlife as part of the CEQA process.

Goal 8 (Page 92) of the element calls for the Preservation of the City's historic identity. The Planning Division prepared a Historical Context Statement in 2006 and adopted a new Historical Resources Chapter to the Municipal Code in 2008. A Historical Inventory of the Downtown was also completed in 2008. The City has also adopted a mitigation measure, which requires historical evaluation of any building over 45 years old prior project approval.

Overall, the Open Space and Conservation element identifies eight goals related to including preserving open space and natural features; creating a stable greenbelt; maintaining a viable agricultural industry; preserving hillside areas as open space; preserving and reclamation of streams and riparian areas as open space; protecting native plants and animals; conserving natural resources; and preserving the City's historic identity. The City has addressed these items through a mix of open space fees on new development, zoning regulations, environmental impact reviews and joint actions with special district, the County, and South County Cities, and the acquisition of open and hillside land. These programs have resulted in substantial compliance with Open Space/Conservation Element goals and policies.

Public Health and Safety Element

The Public Health and Safety element aims to protect persons from any detrimental impacts associated with development by requiring new construction to avoid hazardous areas and materials and/or provide adequate mitigation. This element also intends to safeguard public health by ensuring adequate water quality, and by minimizing noise impacts.

The City's building division continues to implement the geohazard regulation. The Public Health and Safety Element, which includes the state mandated noise and safety element, was updated in the 2001 General Plan.

Goal and Action Item Update

The following is a brief description of individual goals and action items listed in the General Plan, which experienced notable activity during 2006-07 and calendar year 2008.

Goal 4 (Page 99) calls for the least possible damage to persons and property from flooding. Action 4.7 (Page 101) calls for the City to establish an early warning protocol to alert persons within the dam failure inundation zone. The City's office of Emergency Services is preparing to work in partnership with the Santa Clara Valley Water District to develop this protocol.

Regional Coordination

The Regional Coordination element outlines ways for the City of Morgan Hill to participate effectively in planning for growth in the surrounding regions. Close coordination with neighboring and regional agencies is necessary to ensure that future development of adjacent areas is appropriate and occurs in a phased, efficient manner that will help Morgan Hill retain its distinct character.

The regional coordinated goals include:

1. Balanced urban growth in South County;
2. Limited, appropriate urbanization of unincorporated San Martin;
3. Efficient, stable growth of the South County;
4. An effective, productive South County Joint Planning Advisory Committee.

Goal and Action Item Update

The following is a brief description of individual goals and action items listed in the General Plan, which experienced notable activity during FY2006-2007 and calendar year 2008:

Goal 3 (Page 115) calls for effective, stable growth of the South County. Action Item 3.1 calls for joint meetings with the staff of Gilroy, the County, School District and staff of the City of San Jose to determine the impacts of the development of Coyote Valley on the South County and to recommend appropriate responses for each jurisdiction. The City discussed the impacts of Coyote

Valley development through South County Stakeholder meetings. In 2007, the proponents of the Coyote Valley Specific Plan decided not to move forward with additional funding for the planning effort. The Plan was later approved by the City of San Jose as a vision statement for future Coyote Valley development.

Goal 5 (Page 117) calls for an effective and productive South County Joint Planning Advisory Committee. Much of the policies for this element derive from the South County Joint Area Plan. The South County Joint Planning Advisory Committee is made up of three jurisdictions: Morgan Hill, Gilroy, and Santa Clara County. This body has agreed to identify common transportation issues and work on them together as well address regional transportation issues through 2030. The three jurisdictions also worked with the Valley Transportation Agency (VTA) on a South County Circulation Study that was completed in 2008.

An elected official from the City is also appointed to serve on a VTA South County Policy Advisory Board. The PAB confers with the San Benito Council of Governments, which operates under a Memorandum of Understanding to assist with regional coordination of transportation. In 2008 and 2009 a Morgan Hill Council member also serves on the VTA Board of Directors.

Housing Element

The Housing Element of the General Plan under California Government Code Section 65583 is a document of the City's goals, policies, quantified objectives and scheduled programs for the preservation, improvement and development of housing. The State Department of Housing and Community Development has certified that the current Housing Element is in compliance with State law. An update of the Housing Element is currently underway. The Task Force formed by the City Council to oversee the update has reviewed housing achievements by the City and identified current and future needs. Various stakeholder groups have been consulted for their comments on housing in Morgan Hill. Policies and programs designed to address the identified needs have been discussed. A draft of the updated Element will be complete and distributed for public review by the end of the fiscal year. Review of the draft Element by the State and adoption by the City Council is anticipated in the fall of 2009.

CONCLUSION/RECOMMENDATIONS

The General Plan identifies actions that need to be implemented in order to meet the General Plan's goals. For Fiscal Year 2006-2007 and calendar year 2008, 55 high priority actions were identified. These actions are attached as Table A to this report.

Overall, the implementation of the City's General Plan is progressing in a satisfactory manner. All elements of the General Plan were updated in 2001 except for the Regional Coordination element which was adopted prior to 2001. The current Housing Element was adopted in 2006. The Housing Element is being updated and will be reviewed by the state for certification in September 2009. The attached table lists the high priority General Plan Action items for 2006-7 and calendar year 2008. All the action items listed have been completed, are in progress, or will commence soon.

Attachments:

1. Table A-General Plan Implementation Program High Priority Actions

Table A

**High Priority Actions
General Plan Implementation Program
FY06-07 & FY 07-08
Status Report**

GENERAL PLAN ACTION		Duty	Priority	Status
<u>Community Development Element</u>				
Actions				
1.1	Amend City ordinances, programs and plans (e.g., zoning, parking, capital improvements) to conform to amendments or revisions to the policies of the Community Development Element.	CD CA	H	Complete
5.3	Work with Santa Clara County to reach consensual agreement regarding the expansion of the city's urban area and permanent preservation of greenbelts in unincorporated areas surrounding the city.	CD	H GS	Completed - Urban Limit Line Study. Follow-up SEQ/ Ag Mitigation Study underway.
7.1	Expand the Multi-Family Low residential land use designation to allow development of detached units based on design and development criteria intended to limit visual impact (e.g., floor-area ratio, single story, mass of garages, etc.), and limit the number of small-lot detached units in a given project to a small proportion (e.g., less than 25%) of overall units.	CD	H ZO	Currently being implemented. Design and development criteria will be adopted along with new small lot single family zoning
8.1	Develop mechanisms to ensure a variety of building configurations in all multi-family areas.	CD	H ZO	Underway - Zoning Ordinance Update & Design Review Ordinance Completed

Community Development Element				
Actions				
8.2	Develop, adopt and enforce design standards for residential neighborhoods, providing for special design themes, signage, and roadway and sidewalk materials, and other methods of strengthening neighborhood identity.	CD CA	H <i>DRO</i>	Complete
9.1	Provide for a variety of commercial, office and industrial use categories in the Zoning Ordinance.	CD CA	H <i>ZO</i>	Complete
9.2	Update the Zoning Ordinance to specify appropriate levels of non-retail development at major intersections and appropriate levels of retail development along Monterey Road between the retail commercial nodes.	CD	H <i>ZO</i>	Underway - Light Commercial Residential District adopted
9.4	Amend the Zoning Ordinance to create acceptable standards by which auto-related uses may be allowed on Monterey Road, between Wright Avenue and Old Monterey Road.	CD	H <i>ZO</i>	Underway - Zoning Ordinance Update
9.7	Amend the Zoning Ordinance to prohibit convenience commercial uses in residential neighborhoods.	CD CA	H <i>ZO</i>	Underway - Zoning Ordinance Update
9.8	Amend development and building standards as necessary to facilitate commercial re-use of older home, on Monterey Road north of Main Avenue.	CD	H <i>ZO</i>	Underway - Zoning Ordinance Update. Design Review Ordinance Adopted
9.9	Amend the Zoning Ordinance to prohibit auto sales in the Service Commercial designation along northern Monterey Road.	CD CA	H <i>ZO</i>	Underway - Zoning Ordinance Update. Design Review Ordinance Adopted

<u>Community Development Element</u>				
Actions				
10.3	Identify preliminary design criteria and improvements needed for the staged development of a sub-regional commercial center.	CD	H ZO	Completed as Part of Cochrane Commons Project
10.4	Prepare a general set of standards, criteria and incentives for potential developers that identifies an appropriate process and schedule for the development of a sub-regional center.	CD BAHS	H ZO	Complete
10.5	Amend the Zoning Ordinance to require ancillary commercial uses, such as fast-food restaurants and service stations, on lands around interchanges to be part of larger developments.	CD CA	H ZO	Underway - Zoning Ordinance Update Design Review Ordinance Adopted
11.6	Amend the Zoning Ordinance to create acceptable standards by which industrial or office commercial uses may be established on the property located on the east side of Monterey Road south of the Union Pacific train trestle. Such standards shall recognize the significance of this portion of Monterey Road as the northerly entrance to downtown the necessary limitations on use due to its single point of access.	CD CA	H ZO	Underway - Zoning Ordinance Update Design Review Ordinance Adopted
12.1	Develop, adopt and enforce Design Standards for all commercial, industrial, and residential areas in order to provide a high quality environment and to attract desired types of businesses in specific locations. The design standards should address issues such as setbacks, building design and articulation, landscaping, parking and signage.	CD	H DRO	Underway - Design Review Ordinance & Architectural Handbook completed. Design Guidelines for Downtown Specific Plan underway
13.2	Review the downtown commercial land use category and associated zoning categories to ensure that they promote pedestrian-oriented retail uses, including by requiring offices to be located away from Monterey Road or on upper floors along Monterey Road.	CD BAHS	H DP	Underway – Downtown Specific Plan
13.3	Review the General Plan and Zoning to ensure that there is adequate land available for an appropriate mix of activities downtown.	CD	H DP	Underway – Downtown Specific Plan

Community Development Element				
Actions				
13.4	Review the proposed Third Street pedestrian mall for possible redesign to increase its attractiveness or usefulness to pedestrians.	CD	H <i>DP</i>	Complete - Downtown Plan; City has received a grant to improve Third Street and encourage trips from Caltrain station to downtown via Third Street. City received a grant for Third Street improvements in 2007
13.6	In updating the Downtown Design Plan, include an evaluation of parking needs and consider appropriate residential densities and building heights for the downtown.	CD	H <i>DP</i>	Underway – Downtown Specific Plan
13.8	Review and revise as necessary the budget for maintaining downtown streetscape improvements.	BAHS PW	H	Implementing Downtown Plan, traffic calming and Third Street improvements
14.1	Develop and implement designs for public improvements at the key gateways to Morgan Hill including: Madrone area north of Cochrane Road, the Cochrane Road / Monterey Road intersection, Monterey Road south of Watsonville Road, the Caltrain station and freeway interchanges at Cochrane, Dunne and Tennant.	CD BAHS	H <i>DRO</i>	Underway - Zoning Ordinance Update
14.2	Develop, adopt and enforce Gateway Design Standards which set forth specific site, landscaping, architectural, and sign design standards for private development at and around the gateways to the community.	CD	H <i>DRO</i>	Underway - Zoning Ordinance underway, Architectural Handbook completed

<u>Community Development Element</u>				
Actions				
16.3	Identify and adopt a set of service standards for major public facilities and services (roads, police, fire, sewer, water, drainage) that identify accepted service standards for development in Morgan Hill.	PW PD CM	L H	Underway
17.7	Consider strengthening Fire and Police standards in Chapter 18.78 of the Municipal Code.	PD CM	H	Completed through RDCS Updates
17.9	Until such time as there is an acute care hospital operating in the City, ensure that there is at least one vacant site of 10 to 15 acres in size which is zoned to allow that use.	CD	H	Complete
17.10	Amend the Zoning Ordinance, as necessary, to ensure that medical facilities are allowed within industrial zoning districts.	CD CA	H ZO	Underway - Zoning Ordinance Update
18.9	Develop business plans for new sports parks and special use facilities that address management structure, potential partnerships, long-term operations and maintenance costs and potential for cost recovery through user fees and other means.	REC BAHS	H	Recreation and Community Department's cost-recovery is approximately 80 percent due to collaborative service delivery with other organizations. As a result, less than one-half of department expenses are for personnel.
18.13	Enhance the City's role as a center of information for community recreation programs provided by the City and other recreation providers.	REC	H	City has enhanced its own marketing efforts and assists with disseminating information for others.
18.16	Incorporate guidelines for the design and development of future HOA parks into the design review process. (These guidelines are included in the Parks, Facilities and Recreation Programming Master Plan.)	CD	H DRO	Underway - Zoning Ordinance Update Design Review Ordinance complete

18.19	Encourage establishment of a non-profit foundation to support parks and recreation facilities and programs.	REC	H	Completed through support of formation of Morgan Hill Community Foundation
18.20	Establish operations and maintenance cost-recovery goals for various facilities and programs. Establish which types of programs should be self-supporting, and which programs may be partially subsidized by the City. Coordinate user fee schedules with MHUSD so that School District and City facilities have consistent user fees.	REC FIN	H	City has adopted a "bottom-line" policy for recreation and community services because it is operated as one integrated system to maximize service delivery.
18.21	Enhance scholarship programs to assist with program fees and equipment costs for low-income youth.	REC	H	City offers scholarships for all programs.

<u>Economic Development Element</u>				
Actions				
1.2	Provide businesses with financial and non-financial assistance, as appropriate, pursuant to the City's Business Assistance Guidelines.	BAHS	H	Ongoing
1.3	Develop a biennial strategy that details the City's proactive approach to business attraction and retention that identifies the specific industries toward which efforts will be targeted.	BAHS	H	Complete
1.4	Develop and maintain business assistance programs, such as development fee deferral, commercial improvement loans and façade grants to facilitate development of targeted areas including downtown, as appropriate.	BAHS	H	Ongoing – City has implemented façade improvement grants, development fee deferral, and commercial improvement loans on a case by case basis
1.8	Identify appropriate locations and provide incentives for attracting one or more major catalyst tenants (e.g., offices, retail) to the downtown.	BAHS	H	Ongoing

<u>Circulation Element</u>				
Actions				
1.1	Develop techniques for ensuring that right-of-way is available at appropriate times and locations to accommodate traffic conditions associated with an 8-lane configuration for Highway 101.	CD PW	H	Underway – City working with CalTrans to complete the design of the Tennant and 101 interchange
3.15	Designate residential properties fronting on Dunne Avenue as Planned Residential Development in order to maximize the potential for improved landscaping and design.	CD	H ZO	Complete
3.18	In cooperation with the County, determine what traffic facilities are needed south of Tennant Avenue and the Hill Road area.	CD PW	H	Complete – South County Circulation Study
3.21	Evaluate the feasibility of developing Murphy Avenue as a two lane Arterial or Collector street. The evaluation should assess as two alternatives, the potential of designating Condit Road an Arterial street and reducing land use intensities in the area served by Murphy Avenue and Condit Road.	CD PW	H	Underway – South County Circulation Study and Murphy Corridor Study
7.3	Establish a development review checklist for use by City staff to evaluate development applications and their consistency with the Bikeways Master Plan, including bicycle parking facilities and off-site improvements where appropriate, such as roadway striping, signage and intersection improvements.	PW	H	Complete

<u>Open Space and Conservation Element</u>				
Actions				
2.1	Work with the County and San Jose to develop a plan for a greenbelt along the expected edge of the urbanized area of the city within two years of adoption of this General Plan action.	CD	H GS	Completed through Urban Limit Line Study except for SE quadrant of Tennant Avenue east of 101
2.2	The Greenbelt Plan shall include a comprehensive planning effort to evaluate appropriate land uses in the rural County areas surrounding the city. The plan shall specifically evaluate the potential for an industrial park south east of the Tennant Avenue, Highway 101 interchange.	CD	H GS	Completed through Urban Limit Line Study, plus potential for sports, recreation and leisure, Ag land mitigation in SE quadrant of Tennant Avenue east of 101 currently being evaluated
2.3	In conjunction with the Greenbelt Plan, investigate the need to modify the UGB and/or SOI to support establishment of a permanent greenbelt.	CD	H GS	Complete
2.4	Use a variety of tools to create a greenbelt, including public acquisition, land use regulation, urban development policy, and economic incentives to landowners, open space easements, transfer of development rights, planned cluster development, assessment districts, and dedication of additional lands upon development.	CD	H GS	Line/Green Belt Study Adopted April 2006Green Belt Study Implementation ongoing
<u>Open Space and Conservation Element</u>				
Actions				
2.8	Work with Gilroy and Santa Clara County to establish and preserve a defined, permanent greenbelt between Morgan Hill and Gilroy, containing such land uses as low-density rural residential, agricultural activities, and recreation areas. (SCJAP 16.15)	CD	H GS	Urban Limit Line/Green Belt Study Adopted April 2006Green Belt Study Implementation ongoing

<u>Open Space and Conservation Element</u>				
2.9	Work with San Jose and Santa Clara County to establish and preserve a defined, permanent greenbelt between Morgan Hill and San Jose in the southern Coyote Valley, comprised of agricultural uses, rural estates, and the Coyote Park chain. (SCJAP 16.13 & 16.14)	CD	H GS	Urban Limit Line/Green Belt Study Adopted April 2006 Green Belt Study Implementation ongoing
2.10	Work with Gilroy and Santa Clara County to implement plans for the preservation of greenbelts between the cities. (SCJAP 16.22)	CD	H GS	Completed - Urban Limit Line Study
5.1	Develop Design Guidelines provisions for preserving, reclaiming and incorporating riparian features into development.	CD	H DRO	Underway - Zoning Ordinance & Design Review Ordinance completed
6.1	Develop Design Guidelines provisions requiring construction activities to avoid disturbance to natural features to the extent feasible.	CD	H DRO	Underway - Zoning Ordinance & Design Review Ordinance completed
7.2	In cooperation with PG&E, subject all municipal buildings to an energy audit and perform practicable energy conservation alterations on municipal buildings. Such alterations can include modifying automatic heating and cooling systems, lighting, installation of natural ventilation methods and solar hot water systems, etc.	CM	H	Complete
7.5	Emphasize energy conservation building techniques for new residential construction through the implementation of Chapter 18.78 of the Municipal Code.	CD	H	Ongoing

<u>Public Health and Safety Element</u>				
Actions				
7.4	Amend the Zoning Ordinance to reflect noise limits intended to protect noise sensitive land uses from intrusion by stationary noise sources.	CD CA	H ZO	Underway - Zoning Ordinance & Design Review Ordinance completed

<u>Regional Coordination Element</u>				
Actions				
5.1	Provide the South County Joint Planning Advisory Committee with a list of concerns regarding South County Joint Area Plan policies that should be updated.	CD	H	Complete (no action taken by Committee)

Priorities

\$ H (High Priority), FY 2006-07 & 2007-2008

Other Abbreviations

\$ *DP* Downtown Plan Update
 \$ *DRO* Design Review Ordinance Update
 \$ *GS* Greenbelt Study
 \$ *HE* Housing Element Update
 \$ *ZO* Zoning Ordinance Update

PLANNING COMMISSION'S PARTICIPATION IN THE CARBON DIET CLUB

The purpose of this meeting is to figure out how to calculate your greenhouse gas emissions and review the first half of the book.

Welcome, Purpose and Overview: Please state why you chose to participate. Video Clip

Review how program works: Calculate your emissions at <http://old.morganhill.ca.gov/html/tools/> Familiarize with the workbook actions. Review first half of the workbook. Questions

Next meeting:

1. Calculate your greenhouse gas emissions <http://old.morganhill.ca.gov/html/tools/>
2. Create your action plan to reduce 5,000 pounds or more (page 51 or 52) or use worksheet on city webpage under Environmental Programs-Climate Change-Lose 5,000 pounds of carbon in 30 days.
3. Complete your selected actions up to page 23. Be prepared to discuss any challenges or successes you made.
4. Call Rebecca Fotu 778-6480 if you need to calculate your emissions. You will need your PG&E bill, weekly driving in miles or cost you spend per week on gas, garbage information, air travel information and your water bill.

Agenda

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